

February 23, 2022

**VIA E-FILE**

Honorable Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
Aida.Camacho@bpu.nj.gov

**RE: I/M/O The Request of Aqua New Jersey, Inc. and Aqua Water Holdings, Inc.  
for Approval of Intercompany Restructuring and of An Affiliated Interest  
Agreement  
BPU Docket No. WO21081067**

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Dear Secretary Camacho-Welch:

Enclosed please find a fully executed Stipulation of Settlement, with reference to the above matter for the Board's review and approval. We respectfully request that this be placed on the agenda for the next BPU Meeting in March.

Thank you for your attention to this matter.

Respectfully submitted,



Courtney L. Schultz

CLS/JC

cc: Per Attached Service List

## SERVICE LIST

### *I/M/O Request of Aqua New Jersey, Inc. and Aqua Water Holdings, Inc. for Approval of Intercompany Restructuring and of an Affiliated Interest Agreement*

BPU Docket No. WO21081067

#### **Secretary**

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SERVICE LIST

*I/M/O Request of Aqua New Jersey, Inc. and Aqua Water Holdings, Inc. for Approval of  
Intercompany Restructuring and of an Affiliated Interest Agreement*

BPU Docket No. WO21081067

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

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**In the Matter of the Request of Aqua New Jersey, Inc. and Aqua Water Holdings, Inc. for Approval of Intercompany Restructuring and of An Affiliated Interest Agreement**

**BPU Docket No.: WO21081067**

**STIPULATION OF SETTLEMENT**

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**APPEARANCES:**

Courtney L. Schultz, Esq., Saul Ewing Arnstein & Lehr LLP, on behalf of Petitioners, Aqua New Jersey, Inc. and Aqua Water Holdings, Inc.

Brian Lipman, Director; Susan E. McClure, Esq., Deputy Rate Counsel, Christine Juarez, Assistant Deputy Rate Counsel; and Emily Smithman, Esq., Assistant Deputy Rate Counsel, on behalf of the Division of Rate Counsel

Meliha Arnautovic, Deputy Attorney General, (Matthew J. Platkin, Acting 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 Aqua New Jersey, Inc. (“Aqua NJ” or “Company”), Aqua Water Holdings, Inc. (“Water Holdings” and together with Aqua NJ, “Petitioners”), the Division of Rate Counsel (“Rate Counsel”), and the Staff of the Board of Public Utilities (“Staff”) (collectively, the “Parties”). As a result of an analysis of Petitioners’ Petition and exhibits, discovery conducted by Rate Counsel and Staff, conferences, and negotiations, the Parties to this proceeding have come to the within agreement resolving all matters in this proceeding. The Parties hereto agree and stipulate as follows:

**I. PROCEDURAL HISTORY**

1. On August 13, 2021, Aqua NJ, a public utility corporation of the State of New Jersey engaged in the business of collecting, treating and distributing water and/or wastewater

service to customers, and Water Holdings, a Pennsylvania public utility holding company formed for the purpose of holding Essential Utilities, Inc.'s ("Essential") water and wastewater public utilities, filed with the Board of Public Utilities (the "Board") a Joint Petition for approval of (i) a corporate reorganization (the "Reorganization") pursuant to and consistent with N.J.S.A. 48:2-51.1(a) and 48:3-10 and N.J.A.C. 14:1-5.14(c); and (ii) approval of an updated Affiliated Interest Agreement (the "Affiliate Agreement") between Aqua NJ and Aqua Services, Inc. ("Aqua Services") pursuant to N.J.S.A. 48:3-7.1.

2. The Reorganization would allow Essential to form one new Pennsylvania Holding Company into which it will contribute all of the interests it holds in all of its direct, wholly owned water and wastewater utility subsidiaries, including its shares in Aqua NJ. Water Holdings will be directly owned by Essential and will directly and wholly own all of the stock of Aqua NJ. An organizational chart demonstrating the proposed post-reorganization structure was attached to the Joint Petition as Exhibit B. The Reorganization will allow Essential to align its legal entities in a more appropriate structure following Essential's expansion from a water and wastewater holding company to a natural gas, water and wastewater holding company. In addition, the Reorganization would make Essential's corporate structure more consistent across the two industries in which it owns regulated entities, and will more effectively position Essential as the overarching corporate parent to a portfolio of regulated utilities. The Reorganization is straightforward and involves no substantive change in the ultimate control of Aqua NJ. Aqua NJ will continue to be 100% owned by Essential both before and after the Reorganization, albeit such ownership will be indirect following the Reorganization.

3. As part of the proposed Reorganization, Essential also intends to create a new entity, Essential Utilities Services, Inc. ("Essential Services") adjacent to Water Holdings in

Essential's overall corporate structure. Essential Services will not become part of the chain of ownership of Aqua NJ after the Reorganization. Therefore, no approvals are necessary for this aspect of the Reorganization.

4. Aqua NJ also seeks approval of the Affiliate Agreement, which reflects updates to the currently existing Board-approved Service Company Agreement ("SCA") dated January 1, 2014 (a copy of which was attached to the Joint Petition as Exhibit F) to reflect organizational changes resulting from the acquisition of the Peoples Companies and the proposed Reorganization (a copy of which was attached to the Joint Petition as Exhibit G). Otherwise, the Affiliate Agreement is substantially the same as the current SCA and the services to be provided thereunder are of the same nature and character as those provided by Aqua Service to Aqua NJ today.

## **II. SETTLEMENT PROVISIONS**

5. For the reasons set forth in the following paragraphs, the Parties agree that the record herein supports the findings and conclusions set forth below and that the Board should find:

### **A. The Reorganization**

6. The proposed Reorganization will not adversely impact competition, rates, employees or the provision of safe, adequate and proper utility service at just and reasonable rates, and positive benefits will accrue to customers and the State of New Jersey; specifically:

(a) No Adverse Impact on Competition. The Reorganization will not adversely impact competition because it will not result in either an increase or decrease in utility operations in New Jersey. Aqua NJ will continue to provide service to customers located throughout New Jersey with no changes in its service territory as a result of the Reorganization.

(b) No Adverse Impact on Rates. The Reorganization will not have an adverse impact on the rates charged as rates will not change or increase as a result of the Reorganization. Instead, Aqua NJ will provide service to customers located in its service territories under the current Board-approved tariffs and rate structures, until such tariffs and rate structures are revised in accordance with New Jersey law.

(c) No Adverse Impact on Utility Employees. The Reorganization will not have an adverse impact on the employees of Aqua NJ. There will be no changes in the day-to-day operations or management of Aqua NJ, or workforce reductions as a result of the Reorganization. In addition, the Reorganization will not affect existing collective bargaining agreements, nor will it prevent Aqua NJ from fulfilling its obligations to employees with respect to pension benefits pursuant to N.J.S.A. 48:3-10.

(d) No Adverse Impact on the Provision of Service. The Reorganization will not have an adverse impact on the continued provision by Aqua NJ of safe, adequate and proper utility service at just and reasonable rates. Aqua NJ will continue to adhere to all tariff provisions and continue to fulfill its customer and regulatory obligations following completion of the Reorganization. Moreover, the Board's powers and jurisdiction with respect to Aqua NJ will remain unchanged – the Company will continue to be regulated in the same manner by the Board as it is today. Aqua NJ will remain subject to all applicable laws, regulations, rules, decisions, and orders governing the regulation of New Jersey public utilities.

(e) Positive Benefits. The proposed Reorganization will result in positive benefits to customers and the State of New Jersey. The Reorganization will provide for the realization of savings from management fees related to services provided by Aqua Services to Aqua NJ and from savings that are anticipated to result from administrative efficiencies created

by the formation of Essential Services, a new services company that will be formed by Essential as a result of the Reorganization, from which Aqua Services can draw resources in its provision of service to Aqua NJ. Specifically, it is anticipated that by separating gas from water from an internal corporate support and administration function, management fee savings will be realized through this bright line separation. These savings will flow down to customers during the rate case process. This internal corporate reorganization – and specifically the creation of Essential Services – will facilitate efficiencies and improve accuracy in allocating costs to Essential’s water and wastewater operating companies, like Aqua NJ, which will have a positive impact on the Company’s operations in New Jersey and facilitate cost savings for Aqua New Jersey customers.

7. Aqua NJ has also agreed that it shall cause to be contributed \$10,000 per year over a three-year period (2022, 2023 and 2024) to New Jersey SHARES to be used for the benefit of low-income customers in the State of New Jersey who need assistance with payment of their utility bills.

8. Aqua NJ has also agreed that it will not seek to recover \$150,000 of its deferred COVID-19 arrearages balance in a future base rate case or other proceeding before the Board, including but not limited to BPU Docket No. AO20060471, in customer rates. The arrearage relief set forth here shall be incremental to any relief provided by LIHWAP or other state-funded programs and is to be separate and distinct from any relief ordered by the Board in its generic COVID-19 docket, *I/M/O The Board of Utilities Response to the Covid-19 Pandemic Order Authorizing Establishment of a Regulatory Asset for Incremental Covid-19 Related Expenses*, BPU Docket No. AO20060471.



9. These actions by Aqua NJ represent a significant additional benefit to its customers and to New Jersey residents, which would not materialize absent the approvals sought in connection with the Reorganization.

10. The Petitioners also sought review and approval of the proposed Reorganization, to the extent deemed necessary by the Board, pursuant to N.J.A.C. 14:1-5.10. The Parties agree that the proposed Reorganization is in the public interest and should be approved as described in greater detail in the Joint Petition.

**B. The Affiliate Agreement**

11. Aqua NJ requested Board approval of an updated Affiliate Agreement pursuant to N.J.S.A. 48:3-7.1. The Parties agree that the new Affiliate Agreement should be approved by the Board. The Parties recommend that the Board authorize the execution of the updated Affiliate Agreement (in the form attached to the Joint Petition as Exhibit G).

**C. Miscellaneous**

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

AQUA NEW JERSEY, INC.

February 22, 2022  
Date

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

AQUA WATER HOLDINGS, INC.

February 22, 2022  
Date

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

MATTHEW J. PLATKIN  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the  
New Jersey Board of Public Utilities

2/23/22  
Date

By: Melika Arnautovic  
Melika Arnautovic  
Deputy Attorney General

BRIAN O. LIPMAN, ESQ.  
DIRECTOR – RATE COUNSEL

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Susan E. McClure, Esq.,  
Christine M. Juarez, Esq.,  
Emily Smithman, Esq.,  
Assistant Deputy Rate Counsel

16. 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.

AQUA NEW JERSEY, INC.

February 22, 2022  
Date

By: Courtney L. Schultz  
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Courtney L. Schultz, Esq.  
Attorney for Petitioners

AQUA WATER HOLDINGS, INC.

February 22, 2022  
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By: \_\_\_\_\_  
Meliha Arnautovic  
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