



Agenda Date 3/23/22
Agenda Item: 5A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE REQUEST OF AQUA NEW)
JERSEY, INC. AND AQUA WATER HOLDINGS, INC.) ORDER APPROVING
FOR APPROVAL OF INTERCOMPANY) STIPULATION
RESTRUCTURING AND OF AN AFFILIATED INTEREST)
AGREEMENT) DOCKET NO. WO21081067

Parties of Record:

Courtney L. Schultz, Esq., Saul Ewing Arnstein and Lehr LLP, on behalf of Petitioners, Aqua New Jersey, Inc. and Aqua Water Holdings, Inc.
Brian Lipman, Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

BACKGROUND AND PROCEDURAL HISTORY

On August 13, 2021, Aqua New Jersey, Inc. (“Aqua NJ,” or “Company”) and Aqua Water Holdings, Inc. (“Water Holdings”) (collectively, “Petitioners”), submitted a Joint Petition seeking the New Jersey Board of Public Utilities’ (“Board” or “BPU”) approval pursuant to N.J.S.A. 48:2-51.1, 48:3-10 and 48:3-7.1, and related regulations for (i) a change of control of Aqua NJ resulting from a proposed corporate restructuring (“Proposed Restructuring”); and (ii) an updated Affiliated Interest Agreement (the “Affiliate Agreement”) between Aqua NJ and Aqua Services, Inc. (“Aqua Services”) (“Petition”). The Proposed Restructuring would interject a new holding company, Water Holdings, between Aqua NJ and its current direct parent, Essential Utilities, Inc. (“Essential”). The Affiliate Agreement would allow for Aqua NJ to continue to receive services from its nonregulated service company affiliate, Aqua Services, and details how costs for services will be allocated to Aqua NJ if obtained by Aqua Services from Essential’s to-be-created nonregulated service company.

Petitioners assert that the Proposed Restructuring 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. The proposed corporate structure would move water/wastewater operating utilities that had been direct subsidiaries of Essential into one water/wastewater holding company that parallels the natural gas intermediate

¹ Commissioner Robert M. Gordon did not participate.

holding company structure that has existed since Essential's acquisition of Peoples natural gas distribution company was completed in 2020. Essential also intends to create a new entity, Essential Services, adjacent to Water Holdings in Essential's overall corporate structure.

Aqua NJ provides water services to approximately 55,000 customers and wastewater services to approximately 6,500 customers in New Jersey. Essential is a natural gas, water and wastewater utility holding company that currently also provides service through its operating subsidiaries in Pennsylvania, Ohio, North Carolina, Illinois, Texas, Indiana, Virginia, West Virginia and Kentucky. In addition to Board approval in New Jersey, approvals are required from the Pennsylvania Public Utilities Commission, the North Carolina Public Utilities Commission and the Illinois Commerce Commission to effect the Proposed Restructuring whereas state agencies in Ohio, Texas, Indiana, and Virginia, where Essential's other water/wastewater operating utilities are located, do not require approvals for such transactions.

In addition to filing information responsive to the Board's merger statute and code requirement for a positive benefit, Petitioners also addressed the following legal requirements triggered by the restructuring pursuant to N.J.A.C. 14:1-5.14(b)(1)-(14):

- a. N.J.A.C. 14:1-5.14(b)(1), a copy of the plan of reorganization, as approved by the Essential board of directors on August 4, 2021, was attached as Exhibit C to the Petition.
- b. N.J.A.C. 14:1-5.14(b)(2), a copy of the corporate resolution of Essential authorizing the Proposed Reorganization and transfer of stock was attached as Exhibit C to the Petition.
- c. N.J.A.C. 14:1-5.14(b)(3) and (4), a copy of the recent balance sheets and income statements of Essential and Aqua NJ were attached as Exhibit D to the Petition. No such documents exist for Water Holdings as it was recently formed and has no operations and employees.
- d. N.J.A.C. 14:1-5.14(b)(5), a copy of the certificates of incorporation for Essential and Water Holdings were attached to the Petition as Exhibit E. The certificate of incorporation for Aqua NJ is on file with the Board and will remain unchanged as a result of the Proposed Restructuring.
- e. N.J.A.C. 14:1-5.14(b)(6) and (7), because the Proposed Reorganization's primary purpose is to interpose a holding company between Essential and its water operating company, Aqua NJ, there will be no new capital stock issued as a result. Rather, as a result of the Proposed Reorganization, Essential, as 100% holder of Aqua NJ's presently outstanding and issued capital stock, will transfer all of its shares to Water Holdings. Essential will be the 100% shareholder of all outstanding and issued capital stock of Water Holdings.
- f. N.J.A.C. 14:1-5.14(b)(8), no franchise costs will be capitalized on Essential's or Water Holdings' books.

- g. N.J.A.C. 14:1-5.14(b)(9), the officers and directors of Essential will not change as a result of the Proposed Reorganization, and the officers of Water Holdings, the new principal stockholder of Aqua NJ, are as follows, with those individuals denoted with an (*) also serving as directors:

OFFICERS	
Christopher H. Franklin*	Chief Executive Officer
Colleen M. Arnold	President
Richard S. Fox*	EVP, Chief Operating Officer, Regulated Operations
Matthew Rhodes*	EVP, Strategy & Corporate Development
Daniel J. Schuller*	EVP, Chief Financial Officer
Christopher P. Luning*	EVP, General Counsel and Secretary
Stan F. Szczygiel	SVP, Finance and Treasurer

- h. N.J.A.C. 14:1-5.14(b)(10), the benefits to the public of the Proposed Reorganization are described in the Petition.
- i. N.J.A.C. 14:1-5.14(b)(11), there are no anticipated changes to finances, operations, accounting, rates, depreciation, operating schedules, maintenance and management and none are proposed as a result of the Proposed Reorganization.
- j. N.J.A.C. 14:1-5.14(b)(12), proof of service of notice of the Proposed Reorganization on the public, municipalities served by Aqua NJ, and any public utilities serving in Aqua NJ's service area pursuant to N.J.A.C. 14:1- 4.5, will be provided.
- k. N.J.A.C. 14:1-5.14(b)(13), the required approvals of other state agencies have been sought, in this case approvals from the Pennsylvania Public Utilities Commission ("PAPUC"), the North Carolina Public Utilities Commission ("NCUC"), and the Illinois Commerce Commission ("ICC") whereas state agencies in Ohio, Texas, Indiana, and Virginia, where Essential's other water/wastewater operating utilities are located, do not require approvals for such transactions.
- l. N.J.A.C. 14:1-5.14(b)(14), the total amount of fees and expenses to be incurred in connection with the Proposed Reorganization is not yet known.

The new Affiliate Agreement would also allow for Aqua NJ to continue to receive services from its nonregulated service company affiliate, Aqua Services, and details how costs for services will be allocated to Aqua NJ if Aqua Services obtains a service from Essential's nonregulated service company, Essential Utilities Services, Inc. ("Essential Services"). Petitioners cite to the new Affiliate Agreement Article II that, as a cost protection for Aqua NJ, any services obtained from the new Essential Services organization must be priced as follows: "the services to be rendered under this AIA are to be rendered by Service Company to Aqua NJ at the lower of their cost or market to Service Company." See Petition p. 10, paragraph 23.

After Board Staff (“Staff”) and the New Jersey Division of Rate Counsel (“Rate Counsel”) reviewed the Petition and Exhibits, Petitioners responded to discovery and participated in discovery and settlement discussions. No other parties sought to intervene in the proceeding.

STIPULATION

The Petitioners, Staff, and Rate Counsel (collectively, “Parties”) executed a Stipulation of Settlement (“Stipulation”) executed on February 23, 2022 which addresses all necessary statutory requirements for the approvals sought by Petitioners. The Stipulation provides for the following:²

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

² Although summarized in this Order, the detailed terms of the Stipulation control, subject to the findings and conclusions of the Order. Paragraphs are numbered to coincide with the Stipulation.

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 in the Stipulation 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 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 Petition as Exhibit G).

DISCUSSION AND FINDINGS

N.J.S.A. 48:2-51.1 provides in part:

In considering a request for approval of an acquisition of control, the board shall evaluate the impact of the acquisition on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. The board shall accompany its decision on a request for approval of an acquisition of control with a written report detailing the basis for its decision, including findings of fact and conclusions of law.

In addition to the statutory requirements, N.J.A.C. 14:1-5.14(c) provides:

The Board shall not approve a merger, consolidation, acquisition and/or change in control unless it is satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1.

Thus, in considering a request for approval pursuant to N.J.S.A. 48:2-51.1 and N.J.A.C. 14:1-5.14(c), the Board looks to determine whether positive benefits will flow to customers and the state and that the transaction will not adversely impact any of the four factors set forth under N.J.S.A. 48:2-51.1.

With regard to the new Affiliate Agreement, N.J.S.A. 48:3-7.1 requires filing for approval any "management, advisory service, construction or engineering contract." Specifically, the statute requires:

No management, advisory service, construction or engineering contract that in itself or in connection with another contract relating to the same work, project, transaction or service involves the expenditure of a sum exceeding twenty-five thousand dollars, made by any public utility with any person or corporation owning, holding or controlling separately, or in affiliation with another person or corporation, five per cent or more of the capital stock of such public utility or with any corporation five per cent of the capital stock of which is owned, held or controlled by a person or corporation owning, holding or controlling separately, or in affiliation with another person or corporation, five per cent of the capital stock of such public utility shall be valid or effective until approved in writing by the board.

The board shall disapprove such contract if it determines that such contract violates the laws of this state or of the United States, or that the price or compensation thereby fixed exceeds the fair price or fair compensation for the property to be furnished or the work to be done or the services to be rendered thereunder or is contrary to the public interest: otherwise the board shall approve such contract.

Petitioners have provided the full text of the new Affiliate Agreement and explanations of protections established so that Aqua NJ continues to receive services from Aqua Services at reasonable rates.


The Board, having reviewed the record in this matter including the Petition and the Stipulation **HEREBY FINDS** that positive benefits will flow to customers and the State from the transaction and that the transaction will not adversely impact any of the four factors set forth under N.J.S.A. 48:2-51.1, and it will not adversely affect the public interest.


Accordingly, the Board **HEREBY FINDS** that the proposed Restructuring and Affiliate Agreement are reasonable, in the public interest and in accordance with the law. Accordingly, the Board **HEREBY APPROVES** the Stipulation attached hereto, as its own, incorporating by reference the terms and conditions of the Stipulation, as if fully set forth at length herein. The Board **HEREBY APPROVES** the proposed Restructuring and Affiliate Agreement, including the change of control of Aqua NJ, as more fully described in the Verified Joint Petition.

This Order shall be effective on March 30, 2022.


DATED: March 23, 2022

BOARD OF PUBLIC UTILITIES
BY:


JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

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
DOCKET NO. WO21081067

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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**

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**

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

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

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AQUA NEW JERSEY, INC.

February 22, 2022
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By: Courtney L. Schultz
Saul Ewing Arnstein & Lehr LLP
Courtney L. Schultz, Esq.
Attorney for Petitioners

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MATTHEW J. PLATKIN
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New Jersey Board of Public Utilities

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By: _____
Meliha Arnautovic
Deputy Attorney General

BRIAN O. LIPMAN, ESQ.
DIRECTOR – RATE COUNSEL

2/23/22
Date

By: [Signature]
Susan E. McClure, Esq.,
Christine M. Juarez, Esq.,
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Assistant Deputy Rate Counsel