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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

August 4, 2022

Via Electronic Mail and Overnight Mail

Honorable Carmen Diaz
Acting Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350

Re: 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.
BPU Docket No. WR22030138
OAL Docket No. PUC 02047-2022S

Dear Acting Secretary Diaz:

Petitioner Middlesex Water Company ("Middlesex"), having previously filed its Verified Motion For Emergency Relief on July 22, 2022 in the above-referenced proceeding, hereby files with the Board for its direct consideration the enclosed Reply Brief in Support of its Motion For Emergency Relief and supporting documents pursuant to N.J.A.C. 1:1-12.2 and 12.6.

These aforementioned documents are being filed with the Board Secretary by electronic mail only pursuant to the Board's Order dated March 19, 2020 in Board Docket No. EO20030254. I hereby certify that copies of the aforementioned documents have this day been transmitted to the attached Service List and to the Honorable Jacob S. Gertsman, Administrative Law Judge.

Middlesex respectfully requests that the Board grant Middlesex's Motion For Emergency Relief pursuant to N.J.S.A. 48:2-21.1 and N.J.A.C. 1:1-12.6 for the reasons discussed in the enclosed filing and in the original Motion papers filed on July 22, 2022. Please contact me at (732) 638-7506 or jkooper@middlesexwater.com with any questions or concerns with respect to this filing.

Very truly yours,

A handwritten signature in blue ink that reads "Jay L. Kooper".

Jay L. Kooper
Vice President, General Counsel & Secretary

Enclosures

cc: Service List
Hon. Jacob S. Gertsman, ALJ, New Jersey Office of Administrative Law
(Staci Migliaccio, Judicial Assistant)

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Attorney for Petitioner
Middlesex Water Company

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IN THE MATTER OF THE PETITION OF	:	
MIDDLESEX WATER COMPANY FOR	:	
APPROVAL TO CHANGE THE LEVELS OF	:	BPU DOCKET NO. WR22030138
ITS PURCHASED WATER ADJUSTMENT CLAUSE :	:	OAL DOCKET NO. PUC 02047-2022S
PURSUANT TO N.J.A.C 14:9-7.1 ET SEQ.	:	
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CERTIFICATE OF SERVICE

Jay L. Kooper, an Attorney at Law of New Jersey, hereby certifies the following:

On August 4, 2022, I caused to be served by electronic mail, a copy of the within Reply Brief in Support of Petitioner Middlesex Water Company's Motion For Emergency Relief and supporting papers, to each party on the attached Service List and to the Chambers of the Honorable Jacob S. Gertsman, ALJ, of the New Jersey Office of Administrative Law.



Jay L. Kooper

Dated: August 4, 2022

**In the Matter of the Petition of Middlesex Water Company for
Approval to Change The Levels of its Purchased Water Adjustment Clause
BPU Docket No. WR22030138
OAL Docket No. PUC 2047-2022S
~ Service List A ~**

MIDDLESEX WATER COMPANY

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BOARD OF PUBLIC UTILITIES/DIVISION OF LAW

<p>Carmen Diaz, Acting Secretary Board of Public Utilities Secretary 44 South Clinton Ave., Suite 314 PO Box 350 Trenton, NJ 08625 carmen.diaz@bpu.nj.gov</p>	<p>Pamela Owen Division of Law Public Utilities Section R.J. Hughes Justice Complex 25 Market Street Trenton, NJ 08625 Pamela.Owen@law.njoag.gov</p>	<p>Kofi Ocansey Board of Public Utilities Division of Water 44 South Clinton Ave., 9th Floor P.O. Box 350 Trenton, NJ 08625 Kofi.Ocansey@bpu.nj.gov</p>
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**In the Matter of the Petition of Middlesex Water Company for
Approval to Change The Levels of its Purchased Water Adjustment Clause
BPU Docket No. WR22030138
OAL Docket No. PUC 2047-2022S
~ Service List A ~**

DIVISION OF RATE COUNSEL

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<p>Marilyn Silva Division of Rate Counsel 140 East Front Street, 4th Floor P.O. Box 003 Trenton, NJ 08625 msilva@rpa.nj.gov <i>* Electronic Mail Only</i></p>	<p>Robert Henkes Henkes Consulting 7 Sunset Road Old Greenwich, CT 06870 rhenkes@optonline.net</p>	<p>Christine Juarez, Esq. Assistant Deputy Rate Counsel Division of Rate Counsel 140 East Front Street – 4th Floor Trenton, NJ 08625 cjuarez@rpa.nj.gov</p>

INTERVENORS

<p>Michael R. Burns, Esq. Rainone Coughlin Minchello, LLC 555 U.S. Highway 1 South, Suite 440 Iselin, NJ 08830 mburns@njrcmlaw.com</p>	<p>Jonathan Capp Business Administrator Township of Marlboro 1979 Township Drive Marlboro, NJ 07746 jcapp@marlboro-nj.gov</p>	<p>Kurt Eifert, P.E. Engineering Project Manager Township of Marlboro 1979 Township Drive Marlboro, NJ 07746 KEifert@marlboro-nj.gov</p>
<p>Michael Roy, P.E. Old Bridge Municipal Utilities Auth. 15 Throckmorton Ln Old Bridge, NJ 08857 mroy@obmua.com</p>	<p>David Fox Raftelis Financial Consultants (Consultant for OBMUA) dfox@raftelis.com</p>	<p>Zachary Green Raftelis Financial Consultants (Consultant for OBMUA) zgreen@raftelis.com</p>
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Relief (“Middlesex Brief”); (2) a Certification of Michele L. Tilley together with four exhibits; and (3) Exhibit A, which provides the proposed cost per unit of volume, proposed tariff sheets and the PWAC rate and proof of revenues providing the underlying numbers as to how the proposed PWAC was calculated.

On August 1, 2022, Intervenors filed with the Board an Opposition to the Motion (“Opposition”) together with a Brief in support of their opposition (“Opposition Brief”). Middlesex submits this Reply to the Intervenors’ Opposition pursuant to N.J.A.C. 1:1-12.2 and 12.6. For purposes of brevity, Middlesex incorporates by reference the entirety of its Motion and its supporting documents – inclusive of the Middlesex Brief, the Certification of Michele L. Tilley and corresponding exhibits, and Exhibit A setting forth the proposed PWAC rate and proof of revenues – as if fully set forth herein.

REPLY TO INTERVENORS’ OPPOSITION

The SRB Intervenors devote a considerable portion of their unsigned and unverified Opposition Brief not engaging Middlesex on the merits of the Company’s Motion. Rather, the Intervenors accuse Middlesex, without any substantiation (or required verification), of engaging in nefarious machinations in its request for a PWAC adjustment made pursuant to the Board’s PWAC regulations. In their Opposition, the Intervenors specifically accuse Middlesex of:

- Refusing to provide to the Intervenors any information with respect to the calculations underlying the proposed PWAC²;
- Engaging in unspecified “irregularities” in how the Company has gone about submitting its request for a PWAC adjustment³;

² Opposition Brief at 1.

³ Opposition Brief at 2.

- Not providing the Intervenors with the ability to independently analyze the PWAC calculations or challenge those numbers⁴;
- Purposely withholding information with respect to the additional purchased water at issue in this PWAC proceeding as well as New Jersey American Water Company's request for an increase to its PWAC during the pendency of Middlesex's last base rate case⁵; and
- Reaching a settlement with the other parties to this proceeding – specifically, the Staff of the New Jersey Board of Public Utilities (“Staff”) and the New Jersey Division of Rate Counsel (“Rate Counsel”) – without the participation of the Intervenors.⁶

Each and every one of the Intervenors' accusations above are patently and demonstrably false, and seem designed to distract the Board from the merits of Middlesex's Motion. Contrary to the Intervenors' misrepresentations, Middlesex has acted and continues to act in full accordance with the Board's PWAC regulations in requesting the proposed PWAC adjustment in this case, and has acted fully appropriately and transparently in this entire matter. In support of its request, Middlesex has done the following with respect to this PWAC proceeding:

- Filed a petition with the Board seeking an adjustment to the Company's PWAC pursuant to and in full accordance with the Board's PWAC regulations codified at N.J.A.C. 14:9-7.1 et seq.⁷;
- In its Petition and accompanying exhibits and testimony, set forth the basis for and calculations underlying the proposed PWAC adjustments at the originally requested amounts set forth in the Petition;⁸

⁴ Opposition Brief at 2.

⁵ Opposition Brief at 4-5.

⁶ Opposition Brief at 5-6.

⁷ I/M/O 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., BPU Dkt. No. WR22030138, OAL Dkt. No PUC 2047-2022S, Petition (“Petition”) (Mar. 15, 2022).

⁸ Id.

- Incurred fluctuations in the cost of its purchased water subsequent to the resolution of its last base rate case in BPU Docket No. WR21050813, as detailed in its Petition and supporting documents;⁹
- Properly notified the public, including the Intervenors, of the Company’s PWAC adjustment request;¹⁰
- Filed a letter of non-opposition to Intervenors’ Motion To Intervene on April 28, 2022, the day after Intervenors first filed their Motion;
- Provided the Intervenors with responses to their discovery requests to the extent Intervenors sought information related to the underlying calculation of the PWAC, and properly objected to all other Intervenor discovery requests that sought irrelevant and inadmissible information related to tariff design and other information not germane to a PWAC proceeding;¹¹
- Provided the Intervenors with all Company responses to all other party interrogatories inclusive of Rate Counsel interrogatories seeking additional information as to how Middlesex specifically calculated its proposed PWAC;¹²
- Held numerous settlement meetings with all parties including the Intervenors, who participated in every settlement meeting held and discussed a variety of issues with all parties at those meetings, including the calculation of the proposed PWAC;¹³ and
- Where a non-unanimous settlement was reached among Middlesex, Staff and Rate Counsel and for the reasons fully set forth in the Motion, filed a Motion For Emergency Relief together with exhibits and a certification of a Middlesex witness that fully set forth in great detail the calculations underlying the requested settled PWAC and the reasons why that requested settled PWAC is in the best interests of all its customers.¹⁴

⁹ Id.

¹⁰ Petition at ¶¶17-18, p. 6; Middlesex Brief at 4.

¹¹ See Exhibit A (attached).

¹² See Exhibit B (attached).

¹³ Middlesex Brief at 4-5.

¹⁴ See Motion.

The facts and data supporting this Motion are verified, and could have (and Middlesex assumes have) been tested and examined by all parties, with no party specifically disputing any of them. Middlesex stands behind them as set forth in the enclosed Certification attached to this Reply. For all of these reasons and the reasons set forth below, Intervenors' Opposition is without merit and Middlesex's Motion For Emergency Relief should be granted in its entirety.

A. **Middlesex's Customer Base Will Suffer Irreparable Harm Absent The Granting Of Emergency Relief To Implement A PWAC Adjustment Effective September 1, 2022**

In their Opposition, Intervenors claim that Middlesex's customer base will not suffer irreparable harm because they will suffer mere "economic injury [that] is not irreparable."¹⁵ Intervenors' (again unsupported) claim is belied by the Motion and accompanying Certification of Michele L. Tilley.¹⁶ In both the Motion and accompanying Certification, Middlesex provides great detail as to the cost increases Middlesex's customer base will incur if an adjusted PWAC is implemented on October 1, 2022, November 1, 2022 or any later date as opposed to September 1, 2022.¹⁷ While Intervenors belittle the average \$1.62 per quarter increase residential customers will incur if a PWAC is effective October 1 instead of September 1,¹⁸ such an increase is not an

¹⁵ Opposition Brief at 8 (citing Sampson v. Murray, 415 U.S. 61, 90 (1974)).

¹⁶ Middlesex Brief at 10-12; Certification of Michele L. Tilley at 1-3, Exhibits A-D.

¹⁷ Id.

¹⁸ Opposition Brief at 7.

insignificant amount for those customers, and Middlesex has never claimed otherwise.¹⁹

As stated in Middlesex's Motion, monetary damages here cannot adequately restore a lost experience. Crowe v. DeGioia, 90 N.J. 126, 132-133 (1982). A PWAC, once effective, cannot be given retroactive effect. Toms River Water Co. v. N.J. Bd. of Pub. Util. Commr's, 82 N.J. 201, 214 (1980). If the PWAC at issue here is not rendered effective September 1, 2022, the opportunity to implement a PWAC as proposed in the Motion, and as opposed to far higher amounts if the PWAC is implemented on October 1, November 1 or any later date, is a permanent lost experience. No performance of a "true up" in one year's time will be able to restore that permanent lost experience for Middlesex's customer base. This is a clear hornbook example of irreparable harm as established by the Supreme Court of New Jersey in Crowe.

B. Middlesex's Right To Recover The Costs of Fluctuations In Purchased Water Through A PWAC Is Settled Law And Is The Very Purpose Of A PWAC.

In their Opposition, the SRB Intervenors do not claim that the costs Middlesex seeks to recover through this proceeding are anything other than the costs of fluctuations of purchased water. Rather, Intervenors argue that the Board's PWAC regulations do not apply to what Intervenors characterize as "a sustained period of alternative business operations that was already known to Petitioner during its last base rate case."²⁰ That is not what the PWAC regulations state,

¹⁹ Intervenors allege that Middlesex "had no issue with the average residential customer bill increase per quarter of \$40.94 from their base rate case" as a way to minimize and belittle the projected \$1.62 per increase per quarter for a delayed PWAC. See Opposition Brief at 7. Middlesex never claimed the increase it sought in its prior base rate case was insignificant, and took its obligation to demonstrate through ample evidence why such an increase was justified extremely seriously. Likewise in this proceeding, Middlesex takes its obligation to demonstrate the numbers behind its PWAC calculation extremely seriously, and does not regard an increase of \$1.62 per quarter as insignificant just as it does not regard an increase of \$40.94 as insignificant either.

²⁰ Opposition Brief at 9.

and Intervenors are improperly attempting to rewrite the PWAC regulations outside of a rulemaking proceeding.

As stated in the Motion, Middlesex's legal right to recover the costs of fluctuations in purchased water through a PWAC is well-settled law through the Board's PWAC regulations, codified at N.J.A.C. 14:9-7.1 et seq.²¹ The PWAC permits utilities to "recover in rates, *on a dollar for dollar basis*, any increase or decrease in the cost of their purchased water above the base cost already allowed in rates by the Board. In doing so, the Board essentially allows a recovery of *all* purchased water costs incurred by the Company."²² "Since the actual water costs for a particular period are not known until that period has ended, the PWAC rate is implemented based upon projected purchased water costs and must be trued up at the end of the chosen period."²³

That is precisely what has happened here. Middlesex incurred costs of fluctuations of purchased water as a result of both fully transparent and prudent actions. These costs for this particular period were and are not known until that period is ended. At the conclusion of its last base rate case, it was not known to Middlesex what the costs for the purchase of additional water would be as a result of the temporary shutdown of the Park Avenue wellfield. Nor was it known to Middlesex what the outcome of New Jersey American Water Company's request for its own PWAC adjustment would be. The PWAC clearly permits the utilities "recover in rates, *on a dollar for dollar basis*, any increase or decrease in the cost of their purchased water above the base cost already allowed in rates by the Board. In doing so, the Board essentially allows a recovery of *all*

²¹ Middlesex Brief at 12.

²² Middlesex Brief at 12-13 (citing I/M/O Petition of Middlesex Water Co., Docket No. WR96040307, 1997 WL 40666 (N.J. B.P.U. Jan. 23, 1997)).

²³ Middlesex Brief at 13 (citing I/M/O Petition of Middlesex Water Co., Docket No. WR96040307, 1997 WL 40666 (N.J. B.P.U. Jan. 23, 1997))

purchased water costs incurred by the Company.”²⁴ There was nothing sinister or untoward, as Intervenor imply, in Middlesex seeking recovery for fluctuations in the cost of purchased water as a result of taking Park Avenue temporarily offline or New Jersey American Water Company seeking and subsequently obtaining an adjustment of its own PWAC. Middlesex followed the Board’s PWAC regulations to the letter in making its current requested PWAC adjustment in this proceeding.

Nowhere in the PWAC regulations does there exist any exception or carve out prohibiting recovery in a PWAC of fluctuations in the cost of purchased water as a result of a shutdown of a wellfield or other “temporary period of alternative business operations.” This is especially true in this case, where Middlesex prudently took the Park Avenue wellfield temporarily out of service to address the New Jersey Department of Environmental Protection’s actions with respect to water quality. The PWAC regulations permit the recovery of “*all* purchased water costs incurred by the Company”, end of sentence. To the extent Intervenor seek to change these regulations, such a change, by law, should occur via a rulemaking proceeding. See In re Adopted Amendment to N.J.A.C. 14:1-5.12 (Tariff Filings or Petitions Which Propose Increases in Charges to Customers), No. A-3621-18, 2021 WL 2303075, at *1 (App. Div. June 7, 2021) (citing to In re Bd.’s Review of Applicability & Calculation of Consol. Tax Adjustment, No. A-1153-14 (App. Div. Sept. 18, 2017), slip op. at 1-2). Seeking to change the PWAC regulations to suit Intervenor’s position in the middle of a contested case is wholly improper and should be rejected. Id.

²⁴ Middlesex Brief at 12-13 (citing I/M/O Petition of Middlesex Water Co., Docket No. WR96040307, 1997 WL 40666 (N.J. B.P.U. Jan. 23, 1997)).

The legal right of Middlesex to recover its water supply costs here pursuant to the Board's PWAC regulations is settled law, and is especially appropriate under the current circumstances in this case.

C. Middlesex Is Likely To Succeed On The Merits Of Its Underlying Claim In This Proceeding As Intervenors Have Failed To Raise Any Genuine Or Relevant Issues Of Fact In Opposition

In their Opposition, the SRB Intervenors claim that Middlesex is not likely to succeed on the merits of the underlying claim in this proceeding because of “the significant questions of how the [last Middlesex] base rate case was handled, how the information regarding the Park Avenue wellfields was *manipulated*, and how the PWAC regulations are, in essence being abused.”²⁵ In making these completely baseless, unsupported and unverified allegations, none of which concern any genuine (let alone relevant) issues of fact, Intervenors also somehow allege that “Middlesex has refused to provide any information with respect to the calculations underlying the PWAC proposed and taken a position that none of the information sought by the Intervenors is relevant to a PWAC case.”²⁶ Intervenors further assert that “Petitioner has also made it clear that they oppose any of the discovery requested by the Intervenors...which is intended to allow Intervenors to challenge those numbers [*i.e.*, the numbers underlying the costs which the proposed PWAC is intended to recover].”²⁷

²⁵ Opposition Brief at 10 (emphasis added).

²⁶ Opposition Brief at 1.

²⁷ Opposition Brief at 2.

Intervenors' arguments are patently and demonstrably false. Attached as Exhibit A to this Reply Brief is the full set of *all* of Intervenors' discovery questions issued in this proceeding and Middlesex's responses in their entirety.²⁸ A close reading of these questions and responses reveal that Intervenors are not seeking to question, determine the basis of, or even to challenge the numbers underlying the proposed PWAC (which are relevant evidence in a PWAC). Rather, it is abundantly clear that Intervenors are seeking information related to tariff design, system maps, Middlesex's compliance with existing PFOA regulations, the Company's future plans with respect to operational adjustments, and the Company's anticipated timing with respect to future base rate case filings (none of which are relevant evidence in a PWAC proceeding).²⁹ Specifically, Intervenors ask the following questions in their interrogatories:

- MARL/OBMUA-1: Intervenors request a cost of service study in support of Middlesex's proposed PWAC.
 - Cost of service studies are not utilized to calculate a PWAC. They may or may not be relevant to issues of tariff design in a base rate case, but they are not relevant evidence in a PWAC proceeding. Middlesex objected to this question.
- MARL/OBMUA-2: Intervenors request the Company's stated purpose of the requested changes to its PWAC.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding. Nevertheless, Middlesex answered this question.
- MARL/OBMUA-3: Intervenors request information related to the timing of when Middlesex became aware of the regulatory changes surrounding the New Jersey Department of Environmental Protection's PFOA maximum contaminant level regulations.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding. Middlesex objected to this question but without waiving the objection provided an answer.

²⁸ See Exhibit A, Responses To Discovery Requests MARL/OBMUA-1 through -15.

²⁹ Id.

- MARL/OBMUA-4: Intervenors request a detailed map of Middlesex’s water system.
 - This is not a question seeking information related to the calculation of the PWAC proposed in this proceeding. This information may or may not be relevant to tariff design in a base rate case, but is clearly not relevant evidence in a PWAC proceeding. Middlesex objected to this question.

- MARL/OBMUA-5: Intervenors request a hydraulic computer model study of Middlesex’s transmission system.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding. This information may or may not be relevant to tariff design in a base rate case, but is not relevant evidence in a PWAC proceeding. Middlesex objected to this question.

- MARL/OBMUA-6: Intervenors request a list of transmission legacy projects prior to June 30, 2018.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding. This information may or may not be relevant to tariff design in a base rate case, but is not relevant information in a PWAC proceeding. Middlesex objected to this question.

- MARL/OBMUA-7: Intervenors request information pertaining to the utility plant in service, original cost and accumulated depreciation for transmission mains, meters and meter pits directly serving Old Bridge and Marlboro.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding. This information may or may not be relevant to an issue of tariff design in a base rate case, but is clearly not relevant evidence in a PWAC proceeding. Middlesex objected to this question.

- MARL/OBMUA-8: Intervenors request information showing the “Utility Plant-Net” as of December 31, 2017, 2018 and 2020 broken down by subsidiary.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding. This information may or may not be relevant to issues involving tariff design in a base rate case, but is clearly not relevant evidence in a PWAC proceeding. Middlesex objected to this question.

- MARL/OBMUA-9: Intervenors seek Middlesex Water Annual Reports for the years 1985 through 2010.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding, but is seeking information that is not relevant in a PWAC proceeding. Middlesex objected to this question.

- MARL/OBMUA-10: Intervenors seek information on any rate filings Middlesex is anticipating or planning over the next three years.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding, but seeking information that is not relevant in a PWAC proceeding. Middlesex objected to this question.
- MARL/OBMUA-11: Intervenors request a copy of Middlesex’s complete long-range capital program “So that the Township can prepare for future rate applications.”
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding, but seeking information that is not relevant in a PWAC proceeding. Middlesex objected to this question.
- MARL/OBMUA-12: Intervenors request a schedule depicting the projected annual impact on South River Basin customer rates of the long-term capital improvements.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding, but seeking information that is not relevant in a PWAC proceeding. Middlesex objected to this question.
- MARL/OBMUA-13: Intervenors ask whether Middlesex is aware of any regulatory changes on the way or anticipated that may impact Middlesex’s ability to deliver water to Marlboro or OBMUA in accordance with updated water quality standards.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding, but seeking information that is not relevant in a PWAC proceeding. Middlesex objected to this question.
- MARL/OBMUA-14: Intervenors ask whether there are any operational changes underway that would impact Middlesex’s cost of delivering water to Marlboro or OBMUA under updated water quality standards.
 - This is not a question seeking information on the calculation of the PWAC proposed in this proceeding, but seeking information that is not relevant in a PWAC proceeding. Middlesex objected to this question.
- MARL/OBMUA-15: Intervenors ask for the amount of finished water on a monthly basis that Middlesex purchased from New Jersey American Water Company over the last five years (2018 through 2022).
 - This question only partially sought information concerning the calculation of the PWAC proposed in this proceeding, and Middlesex provided a full response for the New Jersey American Water finished water costs that were used for the calculation of the proposed PWAC in this proceeding (October 2021 going forward).³⁰

³⁰ Id.

Arguably, the only Intervenor interrogatory that could credibly be characterized as seeking information related to the calculation of the Company's proposed PWAC is MARL/OBMUA-15. In responding to that interrogatory, Middlesex provided a complete answer for the time period relevant to the calculation of its proposed PWAC. In addition, Middlesex provided to the Intervenor all of its responses to the discovery questions issued by Rate Counsel, which did seek relevant information as to how the proposed PWAC was calculated.³¹

Contrary to their baseless claims, Intervenor have been afforded a full and fair opportunity in this proceeding to independently analyze Middlesex's PWAC calculations and Middlesex has provided the full and complete proofs and basis for its proposed PWAC adjustment. Intervenor are not, however, entitled to transform this PWAC proceeding into a base rate case by asking for documents and information that are not relevant and therefore not admissible in a PWAC proceeding. The Board's PWAC regulations and New Jersey's discovery rules do not permit such a *carte blanche* for discovery requests.

Thus, while Intervenor allege that this PWAC proceeding is "a case of first impression,"³² the only first impression in this proceeding is Intervenor's attempt to improperly transform this PWAC proceeding into a full base rate case. Intervenor, as indicated by their discovery questions, are not in this proceeding working to analyze, review or challenge the calculation of the numbers underlying the proposed PWAC. To the contrary, it is apparent that Intervenor are in this proceeding to oppose the application of the proposed PWAC *to them*, plain and simple. Their allegations deal with issues of tariff design, and as fully discussed in Middlesex's Motion, nothing in the Board's PWAC regulations suggests that the Board should conduct a tariff design type

³¹ See Exhibit B.

³² Opposition Brief at 12.

examination as to *how* the utility recovers fluctuations in the cost of purchased water above the base cost already allowed in rates. Such an exercise would undermine the very purpose of PWACs in the first place.³³

PWAC proceedings are not base rate cases, and Middlesex in all of its pleadings, discovery responses, and documentary submissions, including most recently in its Motion, has provided ample, transparent and complete detail as to how the numbers underlying the proposed PWAC were calculated in compliance with the requirements of the Board's PWAC regulations. Middlesex is therefore likely to prevail on the merits of its underlying claim in this proceeding.

D. Middlesex's Customer Base Will Suffer Greater Harm If Emergency Relief Is Not Granted Than The Harm Intervenors Would Suffer If Emergency Relief Is Granted

Finally, in their Opposition the Intervenors argue that their equities and interests outweigh the Middlesex customer base's equities and interests because "[I]t is a well-established principal [sic] that Courts favor the status quo."³⁴ Even utilizing that principle of favoring the status quo, Middlesex's customer base will suffer greater harm if emergency relief is not granted than Intervenors will if emergency relief is granted.

That is because under the status quo, a PWAC at the Settled Amount will not be implemented in time for a September 1, 2022 effective date. This means Middlesex's customer base will forever lose the opportunity to receive an otherwise significantly lower PWAC increase than the increase they will eventually receive if the PWAC at the Settled Amount is not approved and implemented in time for a September 1, 2022 effective date. If the September 1, 2022 date

³³ Middlesex Brief at 15-16.

³⁴ Opposition Brief at 13.

passes without such approval, Middlesex would not be permitted to retroactively apply the PWAC back to a September 1, 2022 effective date. While Intervenors may minimize the harm to Middlesex's customer base from this lost opportunity (in the form of a far higher PWAC if implemented on October 1, 2022, November 1, 2022 or any later date)³⁵, as Middlesex's Motion and accompanying Certification of Michele L. Tilley demonstrate, absent implementation of an adjusted PWAC effective September 1, 2022, Middlesex's customer base would certainly incur a substantially and significantly higher PWAC adjustment on October 1, 2022, November 1, 2022 or any later date.³⁶

Conversely, while Intervenors argue that the granting of emergency relief will "take money out of the hands of Intervenors and their customers,"³⁷ (1) that is money Intervenors and their customers are not entitled to retain since Middlesex is likely to succeed on the merits of its underlying claim in this case; and (2) even if Intervenors could somehow demonstrate through relevant documents or information that they have been harmed (which they cannot), Intervenors' harm, unlike the Middlesex customer base's harm if emergency relief is not granted, is *reparable*. And Middlesex has never argued otherwise. If the Intervenors were to successfully challenge any final Board Order issued in this docket, they will be entitled to a refund of the amounts they were assessed and paid under the then approved PWAC. The Middlesex customer base does not get an opportunity to go back in time to attain a lower PWAC assessment effective September 1, 2022 if no PWAC at the Settled Amount is implemented by September 1, 2022, but their charges will inevitably be higher by significant amounts if the PWAC is implemented on a later date.

³⁵ See Opposition Brief at 7

³⁶ See Middlesex Brief at 5-7, 10-11; Certification of Michele L. Tilley.

³⁷ Opposition Brief at 13.

The equities and irreparable interests of Middlesex’s customer base, when balanced against the equities and fully reparable interests of the Intervenors, clearly favor the Middlesex customer base and the granting of the emergency relief requested here.

CONCLUSION

Based on the foregoing and for the reasons set forth in its Motion For Emergency Relief and supporting exhibits and documentation, Middlesex respectfully requests that the Board grant the Company’s Motion For Emergency Relief pursuant to N.J.S.A. 48:2-21.1 and N.J.A.C. 1:1-12.6. Middlesex further requests that pursuant to this grant, the Board approve a change to the level of the Company’s PWAC at the Settled Amount effective September 1, 2022 on an interim basis during the pendency of this proceeding (BPU Docket No. WR22020138 and OAL Docket No. PUC 02047-2022S) and until a final Board decision resolving all issues in this proceeding is issued. Middlesex further requests the Board to take all measures consistent with N.J.A.C. 1:1-12.6 to effectuate this change, even if on a temporary basis pursuant to N.J.A.C. 1:1-12.6(e) and (f) should that become necessary, in order to ensure the approved PWAC levels are implemented in time for a September 1, 2022 effective date.

Respectfully submitted,


Jay L. Kooper
Vice President, General Counsel & Secretary
MIDDLESEX WATER COMPANY
*On behalf of Petitioner
Middlesex Water Company*

Dated: August 4, 2022

EXHIBIT A

**BPU DOCKET NO. WR22030138 AND OAL DOCKET NO. PUC 2047-2022S
INTERROGATORY REQUESTS MARL/OBMUA-1 THROUGH 15
AND MIDDLESEX WATER COMPANY'S RESPONSES TO THOSE REQUESTS**

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA -1 Please provide the Cost of Service Study in support of the Purchase Water Adjustment Clause petition.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water...” N.J.A.C. 14:9-7.1(a).

Notwithstanding and without waiving the above objections, Middlesex Water Company provides the following response: New Jersey Administrative Code Title 14, Chapter 9, Subchapter 7 (codified at N.J.A.C. 14:9-7.1 et seq.) provides for Board of Public Utilities approval of purchased water adjustment clauses and changes to purchased water adjustment clauses “to allow a utility to include in rates the costs in fluctuations in purchased water *without the necessity of a full base rate case.*” N.J.A.C. 14:9-7.1(a) (emphasis added). As PWAC proceedings do not constitute full base rate cases, it would not have been appropriate for Middlesex Water Company to prepare a Cost of Service Study with respect to the Petition filed in this proceeding. Further, as Marlboro and OBMUA are fully aware, Middlesex Water Company prepared and litigated a full Cost of Service Study in the just concluded Middlesex Base Rate Case (BPU Docket No. WR21050813), which was resolved less than six months ago, a study that is already in the possession of Marlboro and OBMUA through that case.

MARL/OBMUA -2
TILLEY
5/24/2022

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA -2 Please clarify and/or confirm the stated purpose of the requested changes to the Purchase Water Adjustment Clause?

Response: See Petition at pages 1-7, supporting Exhibits A through I to the Petition, and Petitioner's Responses to the Discovery Requests RCR-A-1 through 11 promulgated by the New Jersey Division of Rate Counsel, all subject to updates as this proceeding moves forward.

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA -3 Please provide clarification to the following questions regarding PFAS and PFOAs as identified in the Petition:

- a. When were the regulatory changes by NJDEP concerning PFAS/PFOAs announced?
- b. When were the regulatory changes by NJDEP concerning PFAS/PFOAs effective?
- c. When did Middlesex Water Company become aware that the regulatory changes concerning PFAS/PFOAs might impact Middlesex Water Company's ability to meet water quality standards?
- d. When did Middlesex Water Company become aware that the PFAS/PFOAs of its wells were below water quality standards?
- e. What Middlesex Water Company facility, facilities or distribution areas were impacted by high levels of PFAS/PFOAs?
- f. Do the South River Basin customers receive any water from these impacted facilities or distribution areas?
- g. At any point, has the supply of water to the South River Basin ever exceeded the water quality standards for PFAS/PFOAs?

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause ("PWAC") proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on "costs on the fluctuations in purchased water without the necessity of a full base rate case." N.J.A.C. 14:9-7.1(a).

Notwithstanding and without waiving the above objections, Middlesex Water Company provides the following response: Please refer to Paragraph 7 of the Petition filed in this proceeding, located on page 3 of the Petition.

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA -4 Please provide a map of the Middlesex Water Company system including location of mains, treatment plants, booster stations and all water sources, including the interconnection locations in which Middlesex Water Company purchases finished water from New Jersey American Water Company. Please highlight the transmission main connections to the South River Basin service area.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a). In addition, this interrogatory calls for the disclosure of critical infrastructure information by the Company that is not distributable.

Notwithstanding and without waiving the above objections, Middlesex Water Company provides the following response: Engineering design drawings of the Company’s service territory showing; the locations of all wells, distribution mains, treatment facilities and associated facilities in detail, are considered critical infrastructure information by the Company and are not distributable. Maps and other critical infrastructure information will be made available to Intervenors at a mutually agreeable time for inspection at the Company’s business offices. As also raised and resolved in the recently concluded Middlesex Water Base Rate Case (BPU Docket

No. WR21050813), Intervenors Marlboro and OBMUA are already in possession of much, if not all, of this information. It should also be noted that the Stipulation of Settlement resolving Middlesex's last Base Rate Case included a provision for regular meetings between Middlesex and those Intervenors to discuss, explore and try to address areas of concern, a process that continues to present day.

MARL/OBMUA - 5
TILLEY
5/24/2022

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA -5 Please provide a Hydraulic Computer Model Study of the Transmission System that shows direction and quantity of water flow to the South River Basin customers including any computer model studies prepared as a result of high levels of PFAS/PFOAs anywhere within the Middlesex Water Company system.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a).

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA - 6 Please provide a list of Transmission Legacy projects (prior to 6/30/2018) that continue to be included in the rate of return calculated in Middlesex Water Company's cost of service analysis. For each Transmission Legacy project so identified (including the South River Basin project) please provide details including:

- a. Scope of work descriptions.
- b. Location of project.
- c. Pipe diameters.
- d. Project limit locations.
- e. Cost details.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause ("PWAC") proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on "costs on the fluctuations in purchased water without the necessity of a full base rate case." N.J.A.C. 14:9-7.1(a).

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA – 7 What is the utility plant in service, original cost and accumulated depreciation, and annual depreciation cost for the transmission mains, meters and meter pits owned by Middlesex Water Company that directly serve Old Bridge and Marlboro service areas and are located within the Old Bridge and Marlboro service areas?

- a. If these facilities were to be sold, what would be the cost of these facilities?
- b. Please provide information on the length of pipe in the South River Basic section in total (not by municipality) and the construction cost of that pipe.
- c. Please provide the accumulated depreciation and annual depreciation cost of the pipe in the South River Basic section.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a).

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA – 8 Please provide statements showing the “Utility Plant-Net” as of 12/31/17, 12/31/18 and 12/31/20, broken down by subsidiary. Although this information is reported in the Middlesex Water Company balance sheets on a consolidated basis, it has not been broken down by subsidiary.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a).

MARL/OBMUA - 9
TILLEY
5/24/2022

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA – 9 Please provide Company Annual Reports for the years 1985 through 2010. Refer to <https://investors.middlesexwater.com/financials/annual-reports> for examples of the reports sought.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a).

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA -10 Are there any other rate filings anticipated or planned for
anytime in the next three (3) years? What is the anticipated
subject matter of any anticipated filing?

Response: Petitioner Middlesex Water Company objects to this interrogatory because
it calls for information that is entirely outside of the scope of this
Purchased Water Adjustment Clause (“PWAC”) proceeding governed by
N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this
proceeding, and calls for speculation. Specifically, a PWAC proceeding
pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on
the fluctuations in purchased water without the necessity of a full base rate
case.” N.J.A.C. 14:9-7.1(a).

Notwithstanding and without waiving the above objections, Middlesex
Water Company provides the following response: Middlesex Water
Company anticipates that at some future date yet to be determined, the
Company will initiate a new rate filing. There is no additional information
about the timing of that next base rate case.

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA - 11 So that the Township can prepare for future rate applications, please provide the Company's complete long range capital program.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause ("PWAC") proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on "costs on the fluctuations in purchased water without the necessity of a full base rate case." N.J.A.C. 14:9-7.1(a).

Notwithstanding and without waiving the above objections, Middlesex Water Company provides the following response: The recently concluded Middlesex Water Base Rate Case (BPU Docket No. WR21050813) approved a Stipulation of Settlement that provided for regular meetings between Middlesex and Intervenors including Marlboro and OBMUA to discuss, explore and address areas of concern, a process that continues to present day.

MARL/OBMUA - 12
TILLEY
5/24/2022

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA - 12 Please provide a schedule depicting the projected annual impact on South River Basin customer rates of the long-term capital improvements.

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a).

MARL/OBMUA - 13
TILLEY
5/24/2022

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA - 13 Is the Middlesex Water Company aware of any regulatory changes on the way or anticipated that may impact Middlesex Water Company's ability to deliver to its Marlboro or OBMUA customers in accordance with updated water quality standards? South River Basin customers?

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause ("PWAC") proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, is vague, overbroad, and calls for speculation. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on "costs on the fluctuations in purchased water without the necessity of a full base rate case." N.J.A.C. 14:9-7.1(a).

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA - 14 Are there any operational changes under way that would impact Middlesex Water Company's cost of delivering water to its Marlboro or OBMUA customers in accordance with updated water quality standards? South River Basin customers?

Response: Petitioner Middlesex Water Company objects to this interrogatory because it calls for information that is entirely outside of the scope of this Purchased Water Adjustment Clause ("PWAC") proceeding governed by N.J.A.C. 14:9-7.1 et seq., calls for information not relevant to this proceeding, and calls for speculation. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on "costs on the fluctuations in purchased water without the necessity of a full base rate case." N.J.A.C. 14:9-7.1(a).

Notwithstanding and without waiving the above objections, Middlesex Water Company provides the following response: Operational issues arise and are resolved daily in any water system serving the number of customers that Middlesex Water Company serves. The possible cost impact of any of those operational changes were fully explored in Middlesex Water Company's last full base rate case (BPU Docket No. WR21050813) concluded less than six months ago, and the cost impact of any future operational changes will be explored in a future Middlesex Water Company full base rate case.

**I/M/O 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.
BPU Docket No. WR22030138**

Marlboro/OBMUA Data Requests

MARL/OBMUA - 15 What was the amount of finished water on a monthly basis (monthly totals) that Middlesex Water Company purchased from New Jersey American over the last five (5) years (2018, 2019, 2020, 2021, 2022)?

Response: Petitioner Middlesex Water Company objects to the request for historical information (Pre-October 2021) in this interrogatory because it is entirely outside of the scope of this Purchased Water Adjustment Clause (“PWAC”) proceeding governed by N.J.A.C. 14:9-7.1 et seq. The pre-October 2021 information is not relevant to this proceeding and is overly and unduly burdensome. Specifically, a PWAC proceeding pursuant to N.J.A.C. 14:9-7.1 et seq. is a proceeding focused on “costs on the fluctuations in purchased water without the necessity of a full base rate case.” N.J.A.C. 14:9-7.1(a).

Notwithstanding and without waiving the above objections, Middlesex Water Company provides the following response: See the schedule attached hereto for the New Jersey American finished water costs, which were used for the calculation of the proposed purchased water cost recovery in this proceeding.

NJAWC PURCHASED WATER
OCTOBER, 2021 - OCTOBER, 2022

			TAKE/PAY OVERAGE		MINIMUM (MG)	TOTAL
			<u>MG</u>	<u>MG</u>	<u>NOT PURCHASED</u>	<u>MG</u>
OCTOBER	2021	ACTUAL	93.0	2.3	0.0	95.3
NOVEMBER	2021	ACTUAL	90.0	0.1	0.0	90.1
DECEMBER	2021	ACTUAL	93.0	0.2	0.0	93.2
TOTAL NJAWC PURCHASED (OCT-DEC, 2021)			276.0	2.7	0.0	278.7
JANUARY (1)	2022	ACTUAL	93.0	10.5	(48.0)	55.5
FEBRUARY	2022	ACTUAL	84.0	1.0		85.0
MARCH	2022	ACTUAL	93.0	0.0		93.0
APRIL	2022	ACTUAL	90.0	0.2		90.2
MAY	2022	PROJECTED	93.0	93.0		186.0
JUNE	2022	PROJECTED	90.0	90.0		180.0
JULY	2022	PROJECTED	93.0	217.0		310.0
AUGUST	2022	PROJECTED	90.0	217.0		307.0
SEPTEMBER	2022	PROJECTED	93.0	210.0		303.0
OCTOBER	2022	PROJECTED	93.0	93.0		186.0
TOTAL NJAWC PURCHASED (JAN-OCT, 2022)			912.0	931.7	(48.0)	1,795.7

(1) At the request of NJAWC, Middlesex Water Company did not take its contract minimum water purchases for 16 days in January-2022.

EXHIBIT B

**BPU DOCKET NO. WR22030138 AND OAL DOCKET NO. PUC 2047-2022S
E-MAIL SERVICE OF MIDDLESEX WATER COMPANY RESPONSES TO
RATE COUNSEL INTERROGATORY REQUESTS RCR-A-1 THROUGH 12 TO
INTERVENORS OLD BRIDGE MUNICIPAL UTILITIES AUTHORITY
AND MARLBORO TOWNSHIP**

Jay Kooper

From: Tracy Tyrell
Sent: Friday, May 20, 2022 8:04 AM
To: 'mburns@njrcmlaw.com'; 'jcapp@marlboro-nj.gov'; 'KEifert@marlboro-nj.gov'
Cc: Jay Kooper; Bruce O'Connor (ABOconno@middlesexwater.com); Michele L. Tilley; Robert Capko; Yvonne Nieto
Subject: BPU Docket No. WE22030138 (Middlesex Water Company) - RCR-A 1 - 11
Attachments: RCR-A Responses Cover Letter and Service List-A - (RCR-A 1 - 11) (5.20.22)-Intervenors.pdf; 1 - RCR-A 1 - 9 (4.20.22).pdf; RCR-A-10.pdf; RCR-A-11 (5.16.22).pdf

Good Morning,

Enclosed are the following discovery requests submitted on behalf of Middlesex Water Company:

RCR-A

1 - 11

Tracy

Tracy Tyrell

Executive Administrative Assistant

MIDDLESEX WATER COMPANY

"A Provider of Water, Wastewater and Related Products and Services"

Phone: 732-638-7511 Fax: 732-218-1113

Ttyrell@middlesexwater.com



Jay Kooper

From: Tracy Tyrell
Sent: Tuesday, May 24, 2022 11:58 AM
To: 'dfox@raftelis.com'; 'zgreen@raftelis.com'
Cc: 'mburns@njrcmlaw.com'
Subject: BPU Docket No. WE22030138 (Middlesex Water Company) - RCR-A 1 - 11
Attachments: RCR-A Responses Cover Letter and Service List A - (RCR-A 1 - 11) (5.24.22) - Intervenors.pdf; 1 - RCR-A 1 - 9 (4.20.22).pdf; RCR-A-10.pdf; RCR-A-11 (5.16.22).pdf

Good Afternoon,

Enclosed are the following discovery requests submitted on behalf of Middlesex Water Company:

RCR-A

1 - 11

Tracy

Tracy Tyrell

Executive Administrative Assistant

MIDDLESEX WATER COMPANY

"A Provider of Water, Wastewater and Related Products and Services"

Phone: 732-638-7511 Fax: 732-218-1113

Ttyrell@middlesexwater.com



Jay Kooper

From: Tracy Tyrell
Sent: Thursday, June 2, 2022 4:08 PM
To: Andrew Tuzzo; Brian Lipman, Esq.; Bruce O'Connor; Christine Juarez, Esq.; 'David Fox'; David Schmitt; Emily Smithman, Esq.; Jay Kooper; 'Jonathan Capp'; Kofi Ocansey; 'Kurt Eifert, P.E.'; 'Lori Russo'; 'Lou Rainone, Esq.'; Marilyn Silva; 'Matt Manchisi'; Meliha Arnautovic, DAG; Michael Kammer; 'Michael R. Burns, Esq.'; 'Michael Roy, P.E.'; Michele L. Tilley; Pamela Owen; Robert Capko; Robert Henkes; Susan McClure, Esq.; Tracy Tyrell; Yvonne Nieto; 'Zachary Green'
Subject: BPU Docket No. WE22030138 (Middlesex Water Company) - RCR-A 12
Attachments: RCR-A Responses Cover Letter and Service List A - (RCR-A 12) 2022.pdf; RCR-A-12 (6.2.22).pdf

Good afternoon,

Enclosed are the following discovery requests submitted on behalf of Middlesex Water Company:

RCR-A

12

Thank you
Tracy

Tracy Tyrell

Executive Administrative Assistant

MIDDLESEX WATER COMPANY

"A Provider of Water, Wastewater and Related Products and Services"

Phone: 732-638-7511 Fax: 732-218-1113

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Middlesex Water Company

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. :
_____ :

BPU DOCKET NO. WR22030138
OAL DOCKET NO. PUC 02047-2022S

**CERTIFICATION IN SUPPORT OF
REPLY BRIEF IN SUPPORT OF
MOTION FOR EMERGENCY RELIEF**

Jay L. Kooper, an Attorney at Law of New Jersey, hereby certifies the following:

1. I am the Vice President, General Counsel & Secretary of Middlesex Water Company.
2. I am duly authorized to make this Certification on behalf of Middlesex Water Company.
3. I hereby certify that the foregoing Reply Brief and supporting documents were prepared

under my direction and supervision.

4. I further certify that the statements and information in the foregoing Reply Brief are true and correct to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Jay L. Kooper
Vice President, General Counsel & Secretary
Middlesex Water Company

Dated: August 4, 2022