

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

<b>IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017</b>	<b>:</b>	<b>BPU DOCKET NO. AX18010001</b>
	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
<b>IN THE MATTER OF THE PETITION OF ENVIRONMENTAL DISPOSAL CORP. WITH CALCULATION OF RATES UNDER THE TAX CUTS AND JOBS ACT OF 2017</b>	<b>:</b>	<b>BPU DOCKET NO. WR18030235</b>
	<b>:</b>	<b>STIPULATION OF SETTLEMENT</b>
	<b>:</b>	
	<b>:</b>	

**APPEARANCES:**

**Christopher M. Arfaa, Esquire**, for Petitioner Environmental Disposal Corp.

**Brian O. Lipman, Esquire**, Director, New Jersey Division of Rate Counsel

**Paul Youchak, Esquire**, Deputy Attorney General (Matthew J. Platkin, Attorney General of New Jersey) on behalf of the Staff of the Board of Public Utilities

**TO THE HONORABLE BOARD OF PUBLIC UTILITIES:**

**BACKGROUND**

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (“TCJA”) was signed into law with an effective date of January 1, 2018. The TCJA sets forth changes to the Federal Internal Revenue Tax Code, one of which is the reduction in the maximum corporate tax rate from 35% to 21% effective January 1, 2018.

On January 31, 2018, the New Jersey Board of Public Utilities (“Board”) issued an Order (“TCJA Order”) which set all affected utility rates as interim and established a proceeding to consider the implications of the TCJA. *See I/M/O New Jersey Board of Public Utilities’ Consideration of the Tax Cuts and Jobs Act of 2017*, BPU Docket No. AX18010001 (Jan. 31,

2018). The TCJA Order directed each affected public utility to defer, with interest, the effects of the TCJA on its books and records effective January 1, 2018, and to file amended tariffs reflecting a reduction in rates resulting from the reduction in the maximum corporate tax rate effective April 1, 2018, as well as a plan to address other rate factors and to refund any over-collection in rates.

On March 2, 2018, Environmental Disposal Corp. (“EDC” or “Company”) filed a petition (“TCJA Filing”) under the TCJA Order in Docket Nos. AX1801001 and WR18030235. The TCJA Filing described the impact of the TCJA on EDC and included proposed tariffs reflecting a rate reduction resulting from the TCJA. EDC also proposed to defer, as of January 1, 2018, with interest at its short-term debt rate, the impact on rates as a result of decreasing its tax expense from 34% to 21% for the period January 1, 2018, through March 31, 2018 (“stub period”). The Board adopted the Company’s proposed tariffs, on an interim basis, effective April 1, 2018, subject to refund pending the outcome of this proceeding.

The TCJA Filing also included proposals related to the effects of the TCJA on accumulated deferred income taxes (“ADIT”). The TCJA Filing explained that EDC elected to utilize the “average rate assumption method” (“ARAM”) calculation method and therefore could not begin flowing back “excess” ADIT (“excess ADIT” or “EADIT”) to customers until it completed those calculations. Consequently, the TCJA Filing proposed to defer the excess ADIT liability until the Company’s next base rate case. EDC recommended that, in the next rate case, when the amortization amount is known, it would begin to flow back that amount to customers.

On May 25, 2018, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed comments in this matter. EDC submitted reply comments on June 5, 2018. On June 7, 2019,

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

On December 6, 2019, EDC submitted its updated excess ADIT balances and amortization calculations, and its proposal for the return of the excess ADIT to its customers.

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

### **STIPULATED MATTERS**

#### **A. Excess ADIT**

1. The Signatory Parties agree that EDC’s protected EADIT balance of \$1,069,845, (non-grossed up) is subject to IRS normalization rules and will be amortized and returned to customers over the remaining life of the underlying assets, pursuant to ARAM. EDC’s protected EADIT balance has been recorded as a regulatory liability (“protected EADIT regulatory liability”).

2. The Signatory Parties agree that EDC’s unprotected EADIT balance of \$269,862, (non-grossed up), which is not subject to IRS normalization rules, will be amortized over 15 years. The calculation of the protected EADIT regulatory liability and the unprotected EADIT regulatory asset is set forth on the attached Schedule A.

**B. Disposition of EADIT**

3. The Signatory Parties agree that retroactive to January 1, 2018, through December 31, 2022, the Company will return to customers both protected and unprotected EADIT in the amount of \$251,219 which is net of the revenue requirements of increasing rate base due to the reduction of EADIT. The EADIT will be returned to customers as a one-time credit applied equally to all customers of EDC beginning in March 2023. In addition, the Signatory Parties further agree to pass back the estimated 2023 protected and unprotected EADIT in the amount of \$52,572 as a sur-credit equally to all customers over 10 months beginning in March 2023. The sur-credit (estimated to be \$0.81 per month on an annual basis) will continue until EDC files its next base rate case. At the conclusion of the next base rate case, the sur-credit will be eliminated and EADIT will become a reduction in base rates. ARAM amounts vary each year and to the extent that amounts in any period for 2022 and after vary from the amounts shown on Schedule A, the amounts will be trued up in the next base rate case.

**C. Effective Date**

4. The Signatory Parties agree that they will use their best efforts to ensure that this Stipulation is presented to the Board for approval at its March 8, 2023, public agenda meeting. A Board Order approving this Stipulation shall become effective upon such date that the Board may specify and in accordance with N.J.S.A. 48:2-40.

**D. Miscellaneous**

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

6. The Signatory Parties agree that this Stipulation contains a mutual balancing of

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

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

8. The Signatory Parties agree that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Signatory Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein, in total or by specific item. The Signatory Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

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

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

ENVIRONMENTAL DISPOSAL CORP.

By:   
Christopher M. Arfaa, Esquire

Dated: February 17, 2023

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
ATTORNEY FOR STAFF OF THE NEW JERSEY  
BOARD OF PUBLIC UTILITIES

By:   
Deputy Attorney General

Dated:

BRIAN O. LIPMAN  
DIRECTOR, DIVISION OF RATE COUNSEL

By:   
Susan E. McClure, Esq.

Dated: 2/21/23

**Environmental Disposal Corp. (EDC)  
Excess ADIT - Proposal to Sur-credit Customers  
Schedule A**

	EADIT Amount	Unprotected Life 15	Amortization						Total
			Actual 2018	Actual 2019	Actual 2020	Actual 2021	Estimated 2022	Estimated 2023	
1018 Fed - M/L	\$1,069,845	n/a	(\$26,263)	(\$27,704)	(\$26,845)	(\$31,817)	(\$22,165)	(\$23,541)	(\$158,336)
1018 Fed - COR	12,749	15	(850)	(850)	(850)	(850)	(850)	(850)	(5,100)
1018 Fed - AFUDC Debt	330	15	(22)	(22)	(22)	(22)	(22)	(22)	(132)
1018 Fed - AFUDC Equity	676	15	(45)	(45)	(45)	(45)	(45)	(45)	(270)
1018 Fed - CPI	0	15	0	0	0	0	0	0	0
1018 Fed - Historical Other	227,015	15	(15,134)	(15,134)	(15,134)	(15,134)	(15,134)	(15,134)	(90,806)
1018 Fed - Stock Acq Adj	0	15	0	0	0	0	0	0	0
1018 Fed - Tax Repairs	42,395	15	(2,826)	(2,826)	(2,826)	(2,826)	(2,826)	(2,826)	(16,958)
1018 Fed - Taxable CIAC	0								0
<b>Total PowerTax</b>	<b>\$1,353,010</b>		<b>(\$45,141)</b>	<b>(\$46,582)</b>	<b>(\$45,723)</b>	<b>(\$50,695)</b>	<b>(\$41,043)</b>	<b>(\$42,419)</b>	<b>(\$271,602)</b>
<b>Plant Items Outside PowerTax</b>									
Plant CWIP	\$2,076	15	(\$138)	(\$138)	(\$138)	(\$138)	(\$138)	(\$138)	(\$830)
<b>Total Plant Related</b>	<b>\$1,355,086</b>		<b>(\$45,279)</b>	<b>(\$46,720)</b>	<b>(\$45,861)</b>	<b>(\$50,833)</b>	<b>(\$41,182)</b>	<b>(\$42,557)</b>	<b>(\$272,432)</b>
<b>All Other Non Plant</b>									
Bad Debt	(\$15,379)	15	\$1,025	\$1,025	\$1,025	\$1,025	\$1,025	\$1,025	\$6,151
<b>Total</b>	<b>\$1,339,708</b>		<b>(\$44,254)</b>	<b>(\$45,695)</b>	<b>(\$44,836)</b>	<b>(\$49,808)</b>	<b>(\$40,156)</b>	<b>(\$41,532)</b>	<b>(\$266,281)</b>

**Allocation by Categorization**

Protected	\$1,069,845		(\$26,263)	(\$27,704)	(\$26,845)	(\$31,817)	(\$22,165)	(\$23,541)	(\$158,336)
Unprotected	269,862		(17,991)	(17,991)	(17,991)	(17,991)	(17,991)	(17,991)	(107,945)
Uncertain									
<b>Total</b>	<b>\$1,339,708</b>		<b>(\$44,254)</b>	<b>(\$45,695)</b>	<b>(\$44,836)</b>	<b>(\$49,808)</b>	<b>(\$40,156)</b>	<b>(\$41,532)</b>	<b>(\$266,281)</b>

**Calculation of One-time and Monthly Sur-Credit  
2018-2022 Total Pass-back Amount - Catch-up period**

2018-2022 Total Pass-back Amount - Catch-up period	\$224,749
Grossed-up Amount	\$294,493
Less: EADIT Rate Base Increase (see below)	(33,274)
<b>Net Pass-back Amount for one-time credit</b>	<b>\$251,219</b>
Estimated one-time per customer credit EDC total customers at 9/30/2022 - 5,379	(\$46.70)
Annual EADIT 2023 sur-credit to customers - Grossed up	\$52,572
Monthly EADIT 2023 sur-credit to customers - Grossed up	\$4,381
Estimated monthly per customer sur-credit EDC total customers at 9/30/2022 - 5,379	(\$0.81)
<b>Revenue Requirement of Returning EADIT</b>	
Rate Base effect of passing back credit - see computation	\$268,011
EDC ROR	<b>8.5200%</b>
UOI	\$22,835
EDC Rev. Conv. Factor	1.4572
<b>Revenue Requirement for Rate Base Increase</b>	<b>\$33,274</b>

**Rate Base Increase for passing back Sur-credit**

Year	Month	Pass-Back Amount	Cumulative Rate Base Impact
2023	1	\$ 228,210	\$ 228,210
	2	3,461	231,671
	3	3,461	235,132
	4	3,461	238,593
	5	3,461	242,054
	6	3,461	245,515
	7	3,461	248,976
	8	3,461	252,437
	9	3,461	255,898
	10	3,461	259,359
	11	3,461	262,820
	12	3,461	266,281
2024	1	3,461	269,742
	2	3,461	273,203
	3	3,461	276,664
	4	3,461	280,125
	5	3,461	283,586
	6	3,461	287,047
	7	3,461	290,508
	8	3,461	293,969
	9	3,461	297,430
	10	3,461	300,891
	11	3,461	304,352
	12	3,461	307,812
<b>24 Month Avg Balance</b>			<b>\$268,011</b>