

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

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| IN THE MATTER OF THE PETITION OF | : |                           |
| NEW JERSEY-AMERICAN WATER        | : |                           |
| COMPANY, INC. FOR RECOVERY OF    | : | STIPULATION OF SETTLEMENT |
| REGULATORY ASSET ESTABLISHED     | : |                           |
| FOR INCREMENTAL COVID-19         | : |                           |
| RELATED EXPENSES, AND FOR        | : |                           |
| ESTABLISHMENT OF AN              | : |                           |
| UNCOLLECTIBLE ADJUSTMENT         | : | BPU Docket No. WR23050275 |
| CLAUSE                           | : |                           |

**APPEARANCES:**

**Christopher M. Arfaa, Esq.**, Corporate Counsel, New Jersey-American Water Company, Inc.,  
Petitioner

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

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

**Martin C. Rothfelder, Esq., and Bradford M. Stern, Esq., Rothfelder Stern, L.L.C.**, on behalf  
of Cogen Technologies Linden Venture, L.P., Johanna Foods, Inc., Phillips 66 Company,  
and Princeton University

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

On April 28, 2023, New Jersey-American Water Company, Inc. (“NJAWC” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board”) seeking authorization to recover its COVID-19-related net deferred costs over a three-year period through an annual Special Program Charge (“Petition”). By the Petition, NJAWC also requested approval to establish an Uncollectible Adjustment Clause (“UAC”) in response to effects of uncollectible expenses created by the COVID-19 moratorium.

On June 21, 2023, in accordance with Board Order dated June 7, 2023, NJAWC filed an amended petition (“Amended Petition”), proposing to collect COVID-19-related net deferred costs

over a three-year period, through an annual Special Program Charge of \$5,406,028, from all water and wastewater customers through a volumetric charge for General Metered Service (“GMS”) of \$0.37 per month and a fixed, per-customer, charge for non-GMS customers of \$1.23 per month, to be reconciled annually.<sup>1</sup>

As a result of settlement discussions, the Company, the New Jersey Division of Rate Counsel (“Rate Counsel”), Board Staff (“Staff”), Cogen Technologies Linden Venture, L.P. (“Cogen Technologies”), Johanna Foods, Inc., Phillips 66 Company, and Princeton University (“Princeton”) (collectively, “Signatory Parties”) have agreed to a negotiated resolution of this matter.

### **BACKGROUND AND PROCEDURAL HISTORY**

By Order dated July 2, 2020, the Board authorized the state’s regulated public utilities (“Utilities”) to create a COVID-19 regulatory asset by allowing the deferral of incremental and prudently incurred COVID-19-related costs.<sup>2</sup> The July 2020 Order provided for a deferral period beginning on March 9, 2020, and concluding upon the latest of the following dates: 1) September 30, 2021; 2) 60 days after Governor Murphy declared that the COVID-19 Public Health Emergency was no longer in effect; or 3) in the absence of such a declaration, 60 days from the time the Public Health Emergency automatically terminated pursuant to N.J.S.A. 26:13-3(b) (“Regulatory Asset Period”). The July 2020 Order further required:

1. Each utility with a COVID-19 regulatory asset account to file with the Board quarterly reports, together with a verification by an authorized representative, detailing its COVID- 19-related costs and offsets; and

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<sup>1</sup> In re the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic, BPU Docket No. AO20060471, Order dated June 7, 2023 (“June 2023 Order”).

<sup>2</sup> In re the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic, BPU Docket No. AO20060471, Order dated July 2, 2020 (“July 2020 Order”).

2. All affected utilities to file a petition with the Board by December 31, 2021, or within 60 days of the close of the Regulatory Asset Period, either addressing any potential rate recovery of the utility's COVID-19 regulatory asset, including any prudence determinations, and the appropriate period of recovery for any approved amount of the regulatory asset and any associated savings; or, in the alternative, requesting that the Board defer consideration of COVID-19 regulatory asset rate recovery until a future base rate case.

Through a series of Orders, the Board extended the Regulatory Asset Period until March 15, 2023, and the deadline to file for recovery of costs until July 17, 2023.<sup>3</sup> The Board further directed the Utilities to each file a formal plan detailing their access and use of state and federal funds, arrearage and disconnection reduction strategies, arrearage recovery efforts, savings due to COVID-19-related changes, and other details during the Regulatory Asset Period.

By the June 2023 Order, the Board required that all filings for cost recovery of COVID-19 regulatory asset balances be evaluated on a case-by-case basis, whether as part of a base rate case or a separate proceeding, to ensure an equitable determination specifically tailored for each individual utility seeking cost recovery. The June 2023 Order further required that a utility must, as part of any filing for cost recovery of COVID-19 regulatory asset balances independent of a base rate case proceeding:

1. Propose a new, separate, special-purpose clause or rider that clearly defines the purpose and scope of the regulatory asset balances being proposed for recovery;
2. Propose rate design that applies a volumetric rate(s) to all applicable customer classes;
3. Propose a reasonable amortization period for the regulatory asset balances, taking into consideration the financial impact on ratepayers' bills;
4. Include carrying costs at a reasonable rate for any over- or under-recovery; and

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<sup>3</sup> In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic, BPU Docket No. AO20060471, Order dated September 14, 2021; In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic, BPU Docket No. AO20060471, Order dated December 21, 2022; In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic, Order Extending the Deadline for the Filing of Petitions for the Recovery of COVID-19 Regulatory Assets, BPU Docket No. AO20060471, Order dated May 10, 2023.

5. Include all other necessary supporting documentation.

On June 21, 2023, NJAWC filed the Amended Petition. By the Amended Petition, the Company further requested to, under its proposed UAC, defer the difference between the amount of uncollectible expense authorized in the Company's most recent general rate case and the actual uncollectible expense incurred after March 31, 2023 on a calendar year period and collect or remit the difference through the UAC during the subsequent year, with any difference reconciled through a subsequent UAC filing. The Company further proposed that the UAC will reconcile the actual incurred uncollectible expense to the base level established in the Company's most recent general rate case.

The Company further proposed the addition of Rate Schedule O-3, the Societal Programs rate schedule to its tariff, which would include two (2) components:

1. The "Special Program" charge which would be used to recover the deferred COVID-19 incremental costs; and
2. The UAC, which will be a charge or credit as related to the Company's uncollectible expense.

On June 20, 2023, Cogen Technologies Linden Venture, L.P. ("Cogen Technologies") filed a motion to intervene in this matter. On July 20, 2023, Phillips 66 Company ("Phillips 66") filed a motion to intervene. On July 27, 2023, Princeton University ("Princeton"), located in Princeton, New Jersey filed a motion to intervene. On August 25, 2023, Johanna Foods Inc. ("Johanna Foods") filed a motion to intervene. Cogen Technologies, Phillips 66, Princeton, and Johanna Foods each noted that it anticipated coordinating its representation and presentation of witnesses to the extent possible in this proceeding with other customers in the same Optional Industrial Wholesale ("OIW") rate class ("OIW Customer Coalition").

On December 20, 2023, the Board issued an Order Designating Commissioner, Setting Matter of Service and Bar Date in this matter, which: 1) granted the motions to intervene of Cogen Technologies, Phillips 66, Princeton, and Johanna Foods; 2) determined that the Petition should be retained by the Board; 3) designated Commissioner Marian Abdou as the Presiding Officer; and 4) directed any entity seeking to intervene or participate in this matter to file the appropriate application with the Board on or before January 8, 2024.<sup>4</sup>

On March 13, 2024, Commissioner Abdou approved an Order adopting a procedural schedule and directed the Signatory Parties to comply with its terms.<sup>5</sup>

On March 13, 2024, Mt. Laurel Township Municipal Utilities Authority (“MLMUA”) filed a motion to intervene in this matter.

On March 13, 2024, after publication of proper notice to the general public in newspapers of general circulation, posting of notice on the Company’s website, and service of notice upon affected municipalities and counties within the Company’s service area, two virtual public hearings were held, at 4:30 p.m. and 5:30 p.m., presided over by Commissioner Abdou. Members of the public did not attend nor were any written comments received.

By letter dated March 20, 2024, NJAWC requested, with the consent of all parties, that Commissioner Abdou suspend the procedural schedule in this matter to allow settlement discussions to continue unimpeded.

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<sup>4</sup> In re the Petition of New Jersey-American Water Company, Inc. for Recovery of Regulatory Asset Established for Incremental COVID-19 Related Expenses, and for Establishment of an Uncollectible Adjustment Clause, BPU Docket No. WR23050275, Order dated December 20, 2023.

<sup>5</sup> In re the Petition of New Jersey-American Water Company, Inc. for Recovery of Regulatory Asset Established for Incremental COVID-19 Related Expenses, and for Establishment of an Uncollectible Adjustment Clause, BPU Docket No. WR23050275, Order dated March 13, 2024 (“March 2024 Order”).

On April 3, 2024, Commissioner Abdou entered an Order on Motion to Intervene or Participate and Suspending Procedural Schedule.<sup>6</sup> The April 2024 Order denied MLMUA's motion to intervene and instead granted MLMUA participant status in this proceeding. The April 2024 Order also, with the consent of the parties, suspended the procedural schedule set forth in the March 2024 Order.

Rate Counsel and Board Staff have served interrogatories on NJAWC, which were responded to in full by the Company.

The parties engaged in settlement negotiations during February and March 2024. As a result of a review of the Petition, the Amended Petition, discovery responses, and negotiations, the Signatory Parties have reached a stipulation of settlement ("Stipulation"), the provisions of which are set forth below.

#### STIPULATION OF SETTLEMENT

1. The Signatory Parties agree that NJAWC should recover the regulatory asset established for incremental COVID-19 related expenses in the amount of \$14,204,102 through its proposed Special Program Charge ("SPC"), as detailed below:
  - a. The deferred regulatory asset shall be recovered from the customers of following rate schedules: Rate Schedules A-1 through A-18 ("GMS") and C, D, E, F, G, H, I, J, L-1 through L12, M-1 through M-12, and wastewater service under Rate Schedules 1-A through 19-A (collectively, "non-GMS").
  - b. The SPC on Rate Schedule O-3 of the tariff will begin no later than June 1, 2024, and be designed to recover \$4,734,701 annually over a period of three (3) years.

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<sup>6</sup> In re the Petition of New Jersey-American Water Company, Inc. for Recovery of Regulatory Asset Established for Incremental COVID-19 Related Expenses, and for Establishment of an Uncollectible Adjustment Clause, BPU Docket No. WR23050275, Order dated April 3, 2024 ("April 2024 Order").

- c. The GMS and non-GMS revenue requirement allocation percentages will be updated following each base rate proceeding during the SPC recovery period.
- d. The SPC shall be allocated to the rate schedules as follows: revenue responsibility shall be assigned to GMS in the same proportion as total revenue requirements were assigned to GMS in NJAWC's most recently concluded base rate case. The balance of the revenue responsibility shall be assigned to non-GMS.
- e. The portion of the SPC allocated to GMS customers shall be collected on a volumetric basis. The portion of the SPC allocated to non-GMS customers shall be collected as a fixed per customer surcharge based on the aggregate customer count of the non-GMS class. The Company will update the non-GMS customer count to reflect the count at the end of the one month prior to the surcharge effective date and the GMS usage to reflect the actual usage for the most recent twelve months one month prior to the surcharge effective date.
- f. Attachment A hereto shows the calculation of the monthly volumetric charge for GMS of \$0.0551 per thousand gallons and the monthly fixed, per customer, charge for non-GMS of \$0.99 per month posted in Rate Schedule O-3 to be filed with the Board for an effective date no later than June 1, 2024, which calculation methodology will be consistently applied to the annual reconciliation and update of the SPC following each base rate proceeding during the SPC recovery period. The customer impact for the average monthly usage of 5,520 gallons is \$0.30 per month.
- g. To the extent the Company receives Low-Income Household Water Assistance Program ("LIHWAP") funds from the Department of Community Affairs ("DCA") after March 31, 2024, that relate to the COVID-19 regulatory balance, the Company

will apply such funds to the remaining COVID-19 regulatory balance at the time of the annual reconciliation true-up.


2. The Signatory Parties further agree that interest at the Customer Deposit rate (calculated annually) at the time of reconciliation should be applied on any under- or over-recoveries of the approved annual surcharge amount.
3. The Signatory Parties agree to transfer consideration of the Company's proposed Uncollectible Adjustment Clause to the Company's pending base rate proceeding under BPU Docket No. WR24010056, OAL Docket No. PUC 02409-2024-S.
4. This Stipulation shall be binding on the Signatory Parties upon approval hereof by the Board. This Stipulation shall bind the Signatory Parties in this matter only and shall not be considered precedential in any other proceeding involving the Signatory Parties hereto.
5. This Stipulation contains terms, each of which is interdependent with the others and essential to the signing of this Stipulation. Each term is vital to the agreement, since the Signatory Parties individually and jointly state that they would not have signed the Stipulation had any term been modified in any way. In the event that any modifications whatsoever are made to this Stipulation, each of the Signatory Parties hereto is entitled to certain procedures in the event of such occurrence.
6. If any modification is made to the terms of this Stipulation, the Signatory Parties must be given the right to be placed in the position in which each Signatory Party was before this Stipulation was executed. It is essential that each Signatory Party be given the option to modify its own position, to accept the proposed change(s), or to resume the proceeding as if no agreement had been reached.



7. The Signatory Parties believe that these procedures are fair to all concerned and, therefore, they are made an integral and essential element of this Stipulation.
8. This Stipulation may be executed in as many counterparts as there are signatories to this Stipulation, each of which counterpart shall be an original, but all of which shall constitute one and the same instrument.


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

By:   
Steven Chaplar  
Deputy Attorney General


Dated: April 24, 2024

NEW JERSEY-AMERICAN WATER  
COMPANY, INC.

By:   
Christopher M. Arfaa  
Corporate Counsel


Dated: April 24, 2024

BRIAN O. LIPMAN, DIRECTOR  
DIVISION OF RATE COUNSEL

By:   
Susan McClure  
Deputy Rate Counsel

Dated: 4/25/24

COGEN TECHNOLOGIES LINDEN  
VENTURE, L.P., JOHANNA FOODS,  
INC., PHILLIPS 66 COMPANY, and  
PRINCETON UNIVERSITY

By:   
Bradford M. Stern, Esq.  
Rothfelder Stern L.L.C.

Dated: April 25, 2024

**ATTACHMENT A**  
Updated 4/17/2024

| Line No. | Deferred Costs Description          | Total Surcharge Amount |
|----------|-------------------------------------|------------------------|
| 1        |                                     |                        |
| 2        | COVID-19 Regulatory Asset Cost, net | \$14,204,102           |
| 3        | Recovery Period - in years          | <u>3</u>               |
| 4        | Total Annual Recovery Amount        | \$4,734,701            |

| Line No. | Classification   | Total Revenue      | Percent       |
|----------|--|--------------------|---------------|
| 9        | <b><u>Docket No. WR22010019 - Revenue Allocation</u></b> |                    |               |
| 10       |  |                    |               |
| 11       |  |                    |               |
| 12       | Rate Schedule - GMS                                      | \$682,957,134      | 80.52%        |
| 13       | Rate Schedule - Non-GMS                                  | <u>165,193,885</u> | <u>19.48%</u> |
| 14       | Total  | \$848,151,019      | 100.00%       |

| Line No. | Classification   | Customer Count at 3/31/2024 | Usage(TG) - 12 months <sup>2</sup> | Semi- Annual Surcharge Amount | Annual Rate per Customer <sup>3</sup> | Monthly Surcharge Rate | Monthly Impact <sup>4</sup> |
|----------|--|-----------------------------|------------------------------------|-------------------------------|---------------------------------------|------------------------|-----------------------------|
| 18       | <b><u>Rate Design - Surcharge per classification</u></b> |                             |                                    |                               |                                       |                        |                             |
| 19       |  |                             |                                    |                               |                                       |                        |                             |
| 20       |  |                             |                                    |                               |                                       |                        |                             |
| 21       | Rate Schedules - GMS                                     |                             | 69,166,211                         | \$3,812,526                   | \$0.0551                              | \$0.0551               | \$0.30                      |
| 22       | Rate Schedule - Non-GMS                                  | 77,353                      |                                    | <u>922,175</u>                | <u>\$11.92</u>                        | <u>\$0.99</u>          | <u>\$0.99</u>               |
| 23       |  |                             |                                    | \$4,734,701                   |                                       |                        |                             |

25 <sup>2</sup> Usage for the twelve-months ended March 31, 2024.

26 <sup>3</sup> GMS is the rate per 1,000 gallons. Non-GMS is the cost per customer.

27 <sup>4</sup> GMS impact using the average monthly customer usage of 5,520 gallons.

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