



Agenda Date: 8/14/24
Agenda Item: 5D

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

WATER

IN THE MATTER OF THE PETITION OF FAYSON LAKE)
WATER COMPANY FOR APPROVAL OF AN INCREASE)
IN RATES AND OTHER APPROPRIATE RELIEF)
)
) BPU DOCKET NO. WR24030179
) OAL DOCKET NO. PUC 04695-24

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Martin C. Rothfelder, Esq., Rothfelder Stern, L.L.C., on behalf of Fayson Lake Water Company

BY THE BOARD:

By this Decision and Order, the New Jersey Board of Public Utilities (“Board”) considers an Initial Decision (“Initial Decision”) issued by Administrative Law Judge (“ALJ”) Kimberly A. Moss approving a Stipulation of Settlement (“Stipulation”) signed by Fayson Lake Water Company (“Fayson Lake” or “Company”), Board Staff, and the New Jersey Division of Rate Counsel (collectively, “Parties”) resolving all issues in controversy in this matter.

BACKGROUND / PROCEDURAL HISTORY

On March 12, 2024, Fayson Lake filed a petition with the Board seeking approval of an increase in its base rates for water service (“Petition”). The Company originally requested increased revenues of approximately \$262,048 or 37.27% over existing revenues.

Fayson Lake provides water service to approximately 890 customers in the Borough of Kinnelon, Morris County.

According to the Petition, since the Company’s last base rate case, which concluded in 2018, its rates have not been sufficient to cover the operating expenses necessary to provide safe, adequate, and proper utility service to its customers.

By the Petition, Fayson Lake noted that, since 2018, it has made three (3) major additions to its plant: 1) a water main replacement on Water’s Edge Street in 2020; 2) a water main replacement by Lakeside Trail and Sylvan Trail in 2023; and 3) a telemetry update of its Human Machine Interface System in 2023.

By Order dated March 20, 2024, the Board suspended the proposed rates until August 11, 2024.¹

This matter was subsequently transmitted to the Office of Administrative Law for hearings as a contested case on April 9, 2024 where it was assigned to ALJ Moss. A telephonic prehearing conference was convened by ALJ Moss on May 23, 2024 at which time dates for public hearings were scheduled.

By Order dated July 24, 2024, the Board further suspended the proposed rate increase until December 11, 2024.²

After proper notice, two (2) public hearings were held virtually at 4:30 p.m. and 5:30 p.m. on July 23, 2024 with ALJ Moss presiding over the hearings. Three (3) members of the public spoke at the hearings opposing the rate increase, expressing concerns regarding the quality of service, and requesting changes to how the Company notices future rate increases. The Board received no written comments in this matter.

STIPULATION

Following a review of the Petition, conducting discovery and several settlement meetings, the Parties executed the Stipulation, the key elements to which are as follows:³

9. The twelve (12) months ended December 31, 2023, adjusted for known and measurable changes, is a reasonable and proper test year period.
10. It is stipulated and agreed that Company's rate base is \$2,645,835, and that a fair overall rate of return thereon is 7.27%, which reflects a cost rate for common equity of 9.60%, as shown below.

Component	Amount	Percentage	Cost Rate	Weighted Cost
Common Equity	973,448	32.70%	9.60%	3.14%
Long Term Debt	2,003,398	67.30%	5.77%	4.13%
Total Cost	2,976,846	100.00%		7.27%

11. As reflected in Schedules A and C to the Stipulation, Fayson Lake's required operating income is \$192,352 and its pro forma operating income is \$21,457. The resulting operating income deficiency is \$170,896, necessitating an annual revenue increase of \$250,727, representing an overall percentage increase of 34.85% over present rate revenues.

¹ In re the Petition of Fayson Lake Water Company for Approval of an Increase in Rates and Other Appropriate Relief, BPU Docket No WR24030179, Order dated March 20, 2024.

² In re the Petition of Fayson Lake Water Company for Approval of an Increase in Rates and Other Appropriate Relief, BPU Docket No. WR24030179, Order dated July 24, 2024.

³ Should there be any conflict between the summary in this Order and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order. Paragraphs are numbered to coincide with the Stipulation.

12. The revenue requirement to which the Parties have stipulated herein is necessary to ensure that Petitioner will continue to provide safe, adequate and proper water service to its customers.
13. Attached to the Stipulation as Schedule B is the new tariff sheet containing rates and charges conforming to the Stipulation and designed to produce the additional annual revenues to which the Parties have stipulated to. As a result of the Stipulation, the average quarterly bill for a typical customer with a 5/8" meter, using 15,000 gallons of water per quarter, will go from \$172.61 to \$231.44 per quarter, an increase of \$58.83 per quarter or 34.12%.
14. Attached to the Stipulation as Schedule C is a schedule demonstrating that the new rates are designed to produce the revenues to which the Parties have stipulated to and reflecting the percentage increase for all classes of service.
15. Fayson Lake will file a new tariff with the Board, with copies to the Parties, in conformity with the Stipulation, to become effective on September 1, 2024, or such date as the Board may direct.

By the Initial Decision, ALJ Moss found that the Parties voluntarily agreed to the Stipulation and that the Stipulation fully disposes of all issues and is consistent with the law. As such, ALJ Moss ordered that the parties comply with the terms of the Stipulation and recommended the Initial Decision to the Board for adoption, modification, or rejection in accordance with N.J.S.A. 52:14B-10.

DISCUSSION AND FINDINGS

The Board, upon careful review of the record in this matter, including the Petition, Stipulation and the Initial Decision, agrees with ALJ Moss's finding that the Stipulation is just and reasonable, voluntarily agreed to by the Parties, and fully disposes of all issues in this proceeding and is consistent with the law.

In evaluating a proposed settlement for a requested rate increase pursuant to N.J.S.A. 48:2-21, the Board must independently review the record and determine, based upon substantial evidence therein, that the figures to which the signatory parties have stipulated are just and reasonable. The Board recognizes that the Parties worked diligently to negotiate a compromise that meets the needs of as many stakeholders as possible. The Board further recognizes that the Stipulation represents a balanced solution considering the many complex issues addressed during the pendency of this proceeding.

Therefore, based upon the Board's review and consideration of the record in this proceeding, the Board **HEREBY FINDS** the Initial Decision and Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and Stipulation, attached hereto, including all attachments and schedules, incorporating by reference the terms and conditions of the Stipulation as if fully set forth herein.

Based upon the Stipulation, an average residential customer using 15,000 gallons of water per quarter would see a bill increase from \$172.61 to \$231.44, an increase of \$58.83 or 34.12% on a quarterly basis.

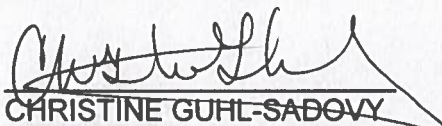
The Board **HEREBY DIRECTS** Fayson Lake to file revised tariffs sheets conforming to the terms and conditions of the Stipulation and this Order prior to September 1, 2024.


The Company's rates remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any actions deemed to be appropriate as a result of any Board audit.

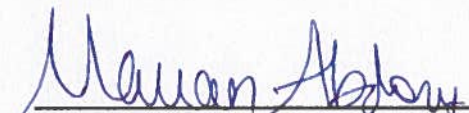
This Order shall be effective on August 21, 2024.

DATED: August 14, 2024

BOARD OF PUBLIC UTILITIES
BY:

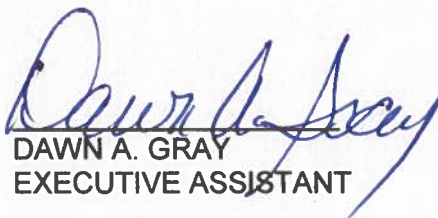

CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST:


DAWN A. GRAY
EXECUTIVE ASSISTANT

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

IN THE MATTER OF THE PETITION OF FAYSON LAKE WATER COMPANY FOR APPROVAL OF AN INCREASE
IN RATES AND OTHER APPROPRIATE RELIEF

BPU DOCKET NO. WR24030179
OAL DOCKET NO. PUC 04695-24

SERVICE LIST

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 04695-24

BPU DKT. NO. WR24030179

**IN THE MATTER OF THE PETITION OF
FAYSON LAKE WATER COMPANY FOR
APPROVAL OF AN INCREASE IN RATES
AND OTHER APPROPRIATE RELIEF,**

Martin C. Rothfelder, Esq. for petitioner Fayson Lake Water Company

Susan E. McClure, Assistant Deputy Rate Counsel for Division of Rate Counsel
(Brian Lipman, Esq., Director, Division of Rate Counsel)

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

Record Closed: July 30, 2024

Decided: August 5, 2024

BEFORE KIMBERLY A. MOSS, ALJ:

On May 12, 2024, Fayson Lake Water Company (petitioner) filed a petition with the Board of Public Utilities (BPU) seeking approval of an increase in its base rates. On April 9, 2024, the BPU transmitted the case to the Office of Administrative Law (OAL)

for hearing as a contested case under N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F 1 to-13.

A telephone prehearing was conducted on May 23, 2024. A follow up telephone conference was scheduled and conducted on July 23, 2024. Public hearings were also held on July 23, 2024. A follow up status conference was scheduled for August 30, 2024. Prior to that date, petitioner submitted Stipulation of Settlement resolving all issues in dispute, which is attached hereto for reference. Having reviewed the record and the settlement terms, I **FIND** as follows:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or the signatures of their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.


Therefore, I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. Accordingly, it is **ORDERED** that the parties comply with the terms of the settlement, and it is **FURTHER ORDERED** that the proceedings in this matter be concluded.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

8-5-24

DATE



KIMBERLY A. MOSS, ALJ

Date Received at Agency:

8-5-24

Date Mailed to Parties:

8-5-24

ljb

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

In the Matter of the Petition of Fayson Lake Water Company for Approval of an Increase in Rates and Other Appropriate Relief)))))	OAL Docket No. PUC 04695-24 BPU Docket No. WR24030179
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STIPULATION OF SETTLEMENT AMONG ALL PARTIES RESOLVING ALL ISSUES

APPEARANCES:

Martin C. Rothfelder, Esq., Rothfelder Stern, L.L.C., Attorneys for Petitioner, Fayson Lake Water Company.

Susan E. McClure, Esq., Assistant Deputy Rate Counsel for Division of Rate Counsel (Brian Lipman, Esq., Director, Division of Rate Counsel).

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

TO THE HONORABLE KIMBERLY MOSS, ADMINISTRATIVE LAW JUDGE, AND THE BOARD OF PUBLIC UTILITIES:

This Stipulation of Settlement among all parties resolving all issues (“Stipulation”) is hereby made and executed as of the dates indicated below, by and among the Petitioner, Fayson Lake Water Company (“Petitioner” or “Company”), the Staff of the New Jersey Board of Public Utilities (“Staff”), and the New Jersey Division of Rate Counsel (“Rate Counsel”) (collectively, “Parties”). The Parties do hereby request that the Honorable Kimberly Moss, Administrative Law Judge (“ALJ”), issue an Initial Decision approving the Stipulation, and that the New Jersey Board of Public Utilities (“Board” or “BPU”) issue an Order approving the Stipulation without modification.

I. PROCEDURAL HISTORY

1. Petitioner is a public utility of the State of New Jersey, subject to the jurisdiction of the Board and franchised to provide water service in the Borough of Kinnelon, Morris Country, New Jersey.
2. On March 12, 2024, Petitioner filed a petition with the Board, pursuant to *N.J.S.A.* 48:2-21, *N.J.S.A.* 48:2-21.1, and *N.J.A.C.* 14:1-5.12, to increase its rates and charges for water service. Petitioner originally requested increased revenues of \$262,048 representing an increase of approximately 37.27% over present revenues.
3. On March 20, 2024, the Board issued an initial Suspension Order suspending increases, changes or alterations in rates for service until August 11, 2024.¹ On April 9, 2024, the Board transmitted the matter to the Office of Administrative Law (“OAL”) as a contested case where it was assigned to the Honorable Kimberly Moss, ALJ.
4. A telephonic pre-hearing conference was held before ALJ Moss on May 23, 2024 at which time dates for public hearings were scheduled.
5. Virtual public hearings were held on July 23, 2024, following publication of an appropriate public notice. Three members of the public spoke at the hearings. Each questioned the costs behind the rate increase. One complained of the lack of bill insert notices of the proposed increases and public hearings and the process for supplying written comments in the notice. That person also thanked the Company for its response to his complaint about excessive chlorine smell in the water.

¹ In re the Petition of Fayson Lake Water Company for Approval of an Increase in Rates and Other Appropriate Relief, BPU Docket No. WR24030179, Order dated March 20, 2024 (“March 2024 Order”).

6. On July 24, 2024, the Board further suspended the proposed rates until December 11, 2024.²

7. During this proceeding, Petitioner was served with, and responded to, discovery requests by Rate Counsel and Staff. Settlement conferences were held on June 25, July 1, and July 3, 2024.

II. STIPULATED MATTERS

8. As a result of an analysis of the petition and exhibits, Petitioner's responses to discovery propounded by the Rate Counsel and Staff, as well as their discussions and negotiations in this matter, the Parties have reached this Stipulation and do hereby stipulate to the following terms:

9. The twelve (12) months ended December 31, 2023, adjusted for known and measurable changes, is a reasonable and proper test year period.

10. It is stipulated and agreed that Petitioner's rate base is \$2,645,835, and that a fair overall rate of return thereon is 7.27%, which reflects a cost rate for common equity of 9.60%, as shown below.

Component	Amount	Percentage	Cost Rate	Weighted Cost
Common Equity	973,448	32.70%	9.60%	3.14%
Long Term Debt	2,003,398	67.30%	5.77%	4.13%
Total Cost	2,976,846	100.00%		7.27%

11. As reflected in Schedules A and C annexed hereto and made part hereof, Petitioner's required operating income is \$192,352 and its pro forma operating income is \$21,457. The

² In re the Petition of Fayson Lake Water Company for Approval of an Increase in Rates and Other Appropriate Relief, BPU Docket No. WR24030179, Order dated July 24, 2024.

resulting operating income deficiency is \$170,896, necessitating an annual revenue increase of \$250,727, representing an overall percentage increase of 34.85% over present rate revenues.

12. The revenue requirement to which the Parties have stipulated herein is necessary to ensure that Petitioner will continue to provide safe, adequate and proper water service to its customers.

13. Attached hereto as Schedule B is the new tariff sheet containing rates and charges conforming to this Stipulation and designed to produce the additional annual revenues to which the Parties have stipulated herein. As a result of this Stipulation, the average quarterly bill for a typical customer with a 5/8" meter, using 15,000 gallons of water per quarter, will go from \$172.61 to \$231.44 per quarter, an increase of \$58.83 per quarter or 34.12%.

14. Attached hereto as Schedule C is a schedule demonstrating that the new rates are designed to produce the revenues to which the Parties have stipulated herein and reflecting the percentage increase for all classes of service.

15. Petitioner will file a new tariff with the Board, with copies to the Parties, in conformity with this Stipulation, to become effective on September 1, 2024, or such date as the Board may direct.

III. MISCELLANEOUS

16. This Stipulation applies only to this proceeding and is executed by the Parties without prejudice to the positions asserted by each in this case and without prejudice to the positions which the Parties may choose to assert in future proceedings. The Parties further agree that the purpose of this Stipulation is to implement fair and reasonable rates and to conclude pending litigation. This Stipulation is not in any way intended to restrict or bind any of the Parties hereto with respect to substantive positions they may choose to assert in any pending or future rate proceeding in this

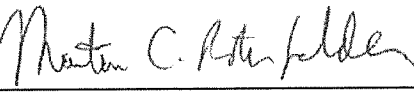
or any other forum. Therefore, the Parties acknowledge that this Stipulation has been made exclusively for this proceeding before the OAL and the Board.

17. In the event of any modification, amendment or alteration of this Stipulation by the Board, the Parties individually reserve the right to either deem the Stipulation void in toto (in which case the Parties would revert to the status quo prior to the execution of this Stipulation, which in this matter would be submission of testimony and proceeding with evidentiary hearings) or to consent to the modification(s) in writing.

18. This Stipulation may be executed in as many counterparts as there are signatories to this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument consisting of several counterparts.

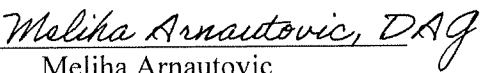
WHEREFORE, the Parties hereto do respectfully submit this Stipulation and request that ALJ Moss issue an Initial Decision approving it in its entirety, and without modification, as soon as reasonably possible.

FAYSON LAKE WATER COMPANY

By: 
Martin C. Rothfelder, Esq.
Rothfelder Stern, L.L.C.


Dated: 7/29/2024

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

By: 
Meliha Arnautovic
Deputy Attorney General

Dated: 7/29/24

**BRIAN O. LIPMAN, DIRECTOR
DIVISION OF RATE COUNSEL**

By: 
Susan E. McClure, Esq.
Managing Attorney

Dated:

FAYSON LAKE WATER COMPANY
REVENUE REQUIREMENT SUMMARY

Rate Base	\$2,645,836
Rate of Return	7.27%
Required Operating Income	\$192,352
Pro Forma Operating Income	\$21,457
Operating Income Deficiency	\$170,896
Revenue Conversion Factor	1.467138
Revenue Deficiency	\$250,727
Rate Increase	34.85%
Pro-Forma Revenue	\$970,156

FAYSON LAKE WATER COMPANY
B.P.U. No. 3 -WATER

Eleventh Revised Sheet No.
4 Superceding
Tenth Revised Sheet No. 4

RATE SCHEDULE NO. 1

Metered Services

Applicable to Use of Service For:

All residential and commercial service through the entire territory served, including service to building contractors.

Character of Service: "Continuous"

Rate:

* Quarterly charge per thousand gallons consumed in addition to the minimum charge listed below - \$ 12.08

Minimum Charge:

Quarterly Facilities for General Metered Services shall be based upon the size of the meter and shall be as follows:

5/8" - -	\$ 50.24
1" - -	\$ 125.62
1-1/2" - -	\$ 224.38
2" - -	\$ 401.93

Determination of Demand:

Billing shall include the consumption and the facilities charges for each billing period.

Date of Issue:

Effective:

Issued by: Jeffrey Kalajian, President
160 Boonton Avenue
Kinnelon, New Jersey 07405

Filed pursuant to decision of Board of Public Utilities Commissioners in Docket No. WR24030179, Dated _____.

* The State of New Jersey enacted Ch. 443 of the Laws of New Jersey 1983 concerning the periodic testing of public water supplies which establishes a water tax of \$0.01 per 1,000 gallons of water. This tax is reflected and included in the above rates. Filed pursuant to decision of Board of Public Utilities Commissioners in Docket No. WR88080977, Dated: April 27, 1989.

FAYSON LAKE WATER COMPANY
B.P.U. No. 3 -WATER

Eighth Revised Sheet No. 6
Superceding
Seventh Revised Sheet No. 6

RATE SCHEDULE NO. 2
Fire Protection Service

Rate:

Charge for Fire Hydrants - Rate per hydrant per Quarter	\$ 233.76
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Terms of Payment:

Net cash due upon rendering of invoice

Date of Issue:

Effective:

Issued by: Jeffrey Kalajian, President
160 Boonton Avenue
Kinnelon, New Jersey 07405

Filed pursuant to decision of Board of Public Utilities Commissioners in Docket No.
WR24030179, Dated _____ .

SCHEDULE C

<u>Rate Element</u>	<u>Units</u>	<u>Quarterly Rate</u>	<u>Annual Revenue</u>	<u>% Increase</u>
5/8"	797	50.24	160,170	34.12%
1"	89	125.62	44,720	34.12%
1 1/2"	2	224.38	1,795	34.12%
2"	2	401.93	3,215	34.12%
Consumption	54,866	12.08	663,012	34.12%
Hydrants	104	233.76	97,244	34.12%
Total			970,156	