



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION SETTLEMENT

OAL DKT. NO. PUC 02300-24

AGENCY DKT. NO. WR24010057

**IN THE MATTER OF THE PETITION OF
AQUA NEW JERSEY, INC. FOR APPROVAL
OF AN INCREASE IN RATES FOR WATER
SERVICE, COVID-19 DEFERRED COST
RECOVERY, ADJUSTMENT OF CERTAIN
DEPRECIATION RATES, AND OTHER
TARIFF CHANGES.**

Courtney L. Schultz, Esq. and Colleen Foley, Esq., for petitioner, Aqua New Jersey Inc. (Saul Ewing LLP, attorneys)

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

Susan E. McClure, Managing Attorney for Division of Rate Counsel (Brian Lipman, Director)

Record Closed: August 28, 2024

Decided: August 29, 2024

BEFORE JACOB S. GERTSMAN, ALJ t/a:

This proceeding involves a petition by Aqua New Jersey Inc. (Aqua) for approval of an increase in its base rates for water service, pursuant to N.J.S.A. 48:2-21, N.J.S.A.

48:2-21.1, N.J.S.A. 48:2-18, and N.J.A.C. 14:1-5.12. The petition was filed with the Board of Public Utilities (Board) on January 19, 2024, and transmitted to the Office of Administrative Law (OAL) on February 20, 2024, for determination as a contested case.

The matter was assigned to the undersigned who conducted the initial case management conference on March 26, 2024. Duly noticed public hearings were held via Zoom Video Communications (Zoom) on May 14, 2024, at 4:30 p.m. and 5:30 p.m. No members of the public appeared at either hearing, and no written comments were received.

Evidentiary hearings were scheduled for October 7, 8, 10 and 17, 2024. Prior to the commencement of the hearings, the parties filed a Stipulation of Settlement (J-1) on August 28, 2024, which resolves all issues in this proceeding. Said Stipulation of Settlement has been signed by petitioner, Staff of the Board of Public Utilities and the Division of Rate Counsel. It indicates the terms of settlement and is attached and fully incorporated herein.

I have reviewed the terms of settlements and **I FIND:**

1. The parties have voluntarily agreed to the settlements as evidenced by their signatures or their representatives' signatures on the attached document.
2. The settlements fully dispose of all issues in controversy between the parties and is consistent with the law.


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.

August 29, 2024 _____

DATE



JACOB S. GERTSMAN, ALJ t/a

Date Received at Agency:

8/30/2024

Date Mailed to Parties:

8/30/2024

JSG/cab

APPENDIX

EXHIBITS

Jointly Submitted

J-1 Stipulation of Settlement

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

IN THE MATTER OF THE PETITION OF	:	STIPULATION OF SETTLEMENT
AQUA NEW JERSEY, INC. FOR	:	
APPROVAL OF AN INCREASE IN RATES	:	OAL DOCKET NO. PUC 02300-24
FOR WATER SERVICE, COVID-19 DEFERRED	:	BPU DOCKET NO. WR24010057
COST RECOVERY, ADJUSTMENT OF	:	
CERTAIN DEPRECIATION RATES, AND	:	
OTHER TARIFF CHANGES	:	
	:	

APPEARANCES:

Colleen A. Foley, Esq., and Courtney L. Schultz, Esq., Saul Ewing LLP, on behalf of Aqua New Jersey, Inc., Petitioner,

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

Brian O. Lipman, Esq., Director, and Susan E. McClure, Esq., Managing Attorney, Water, on behalf of the New Jersey Division of Rate Counsel.

TO THE HONORABLE JACOB GERTSMAN:

The Parties to this proceeding are as follows: Aqua New Jersey, Inc. (“Company,” “Aqua” or “Petitioner”), the New Jersey Division of Rate Counsel (“Rate Counsel”), and the Staff of the New Jersey Board of Public Utilities (“Staff”). As a result of an analysis of Petitioner’s pre-filed testimony and exhibits, extensive discovery, and two public comment hearings held on May 14, 2024, the Company, Board Staff and Rate Counsel (collectively, “Parties”) have come to an agreement on the issues in dispute in this matter. The Parties hereto agree and stipulate as follows:

Procedural History

On January 19, 2024, Petitioner, a public utility corporation of the State of New Jersey, pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12, filed a petition seeking among other things to increase rates for water service and to make other tariff changes (“Petition”).

Specifically, in the Petition, the Company requested the following relief: to increase rates by approximately \$8,328,380, or approximately 17.3%, above the adjusted annual level of revenues for the test year ending April 30, 2024; to reset its current Distribution System Improvement Charge (“DSIC”) to zero at the conclusion of this proceeding and implement a new DSIC Foundational Filing and associated DSIC; to recover certain costs related to the COVID-19 global pandemic; to implement new depreciation rates for the Company; to implement the Company’s plan for recovering customer-side lead service line replacement (“LSLR”) costs through an LSLR surcharge; to use deferred accounting for the costs incurred to remediate per- and polyfluoroalkyl substances (“PFAS”); to address the ratemaking impact of the Company’s tax treatment of repair deductions and related flow through accounting; to authorize the capitalization of the costs of tank painting; and to revise the Company’s tariffs to reflect the proposed rate increase and changes to the Board’s regulations, as well as to address shared service lines and requirements related to cross connections.

By Order dated February 14, 2024, the Board suspended the implementation of changes the Company sought to make to its tariffs until June 19, 2024.¹ On February 20, 2024, the Board transmitted the Petition to the Office of Administrative Law (“OAL”), and Administrative Law Judge (“ALJ”) Jacob Gerstman was assigned to hear the case. Two (2) telephone pre-hearing conferences were convened by ALJ Gertsman on March 26 and July 9, 2024, and a procedural schedule was agreed to by the Parties. ALJ Gertsman issued a Pre-Hearing Order on April 4, 2024. On May 22, 2024, the Board entered an Order further suspending until October

¹ In re the Petition of Aqua New Jersey, Inc. for Approval of an Increase in Rates for Water Service, COVID-19 Deferred Cost Recovery, Adjustment of Certain Depreciation Rates, and Other Tariff Changes, BPU Docket No. WR24010057, Order dated February 14, 2024.

19, 2024, the implementation of changes the Company sought to make to its tariffs.² The procedural schedule was amended on July 11, 2024 to permit the Parties additional time to reach a settlement of this matter.

Extensive discovery was conducted by the Parties with the Company providing responses to numerous data requests. After proper notice, two (2) public comment hearings were held via Zoom on the afternoon and evening of May 14, 2024. No members of the public appeared at the hearings to provide comments. The hearings were transcribed and made a part of the record.

Settlement discussions were held, and the agreements reached during those discussions have resulted in the following Stipulation of Settlement (“Stipulation”) agreed to by the Parties:

1. For the purposes of this proceeding only, the Company’s total rate base is agreed to be approximately \$265,000,000 with a test year ending April 30, 2024, adjusted for certain known and measurable changes. The Parties further agree that this rate base amount does not reflect any particular ratemaking adjustment proposed by any Party for incorporation into the overall revenue requirement calculation.

2. The Parties agree that, for the purposes of resolving this proceeding only, the Company shall have an overall rate of return of 7.09%, which is based on the end of the test year (April 30, 2024) capital structure consisting of 47% long term debt with a cost rate of 4.25%, and 53% common equity with a cost rate of 9.60%.

3. The Parties stipulate that a revenue increase for the Company of \$2,250,000 is an appropriate resolution of this matter and is just and reasonable.

² In re the Petition of Aqua New Jersey, Inc. for Approval of an Increase in Rates for the Water Service, COVID-19 Deferred Cost Recovery, Adjustment of Certain Depreciation Rates, and Other Tariff Changes, BPU Docket No. WR24010057, Order dated May 22, 2024.

4. The Parties acknowledge that the stipulated revenue increase reflects consideration of a consolidated income tax adjustment.

5. The Parties agree and recommend that the attached tariff pages implementing the terms of this Stipulation, included hereto as **Exhibit A**, should be adopted by the Board in their entirety. Attached hereto as **Exhibit B** is a Proof of Revenues for the Company. Final tariff pages implementing these rates will be submitted upon Board approval of this Stipulation. Based on the rate design in **Exhibit A**, the monthly impact of this rate change on the total bill for a typical General Metered Service residential customer using 6,000 gallons per month is approximately \$2.72 or 4.77% percent.

7. The Parties further agree and recommend that the Board approve the Company's new DSIC Foundational Filing, which is attached to this Stipulation as **Exhibit C**, and the DSIC charge shall be reset to zero. The Parties have reviewed the Company's DSIC investments and recommend that the Board find Aqua's DSIC investments to be reasonable and prudent. The Parties also recommend that the Board find that Aqua's recovery of its DSIC investments through its currently approved provisional DSIC surcharge is final and no longer subject to refund. For the DSIC Foundational Filing proposed in this proceeding, the Parties agree that the maximum amount of annual DSIC revenue that may be collected by Aqua is \$2,468,336, which is 5% of the Company's annual revenues (\$49,366,736) as shown on Exhibit B, the Proof of Revenues. Using this revenue cap, the Company estimates that an average residential customer with a 5/8-inch meter would be subject to a maximum monthly DSIC surcharge of approximately \$2.90. This proposed rate impact is estimated and is subject to change depending on the Company's level of DSIC-eligible investments.

8. The Parties further agree that the Company shall be permitted to recover deferred customer-owned LSLR costs incurred as of June 30, 2024, in addition to future customer-owned

LSLR costs, through an LSLR surcharge to appear as a separate line item on the monthly bills of customers, pursuant to the following terms:

a. The Company will recover \$11,535,255 in LSLR costs that have been deferred for the period April 22, 2021 through June 30, 2024 (“Deferred Balance”) over a three (3)-year period (*i.e.*, approximately \$3,845,085 per year). The fixed monthly LSLR surcharge will become effective on the same date as the base rates set in this proceeding. For a residential customer with a 5/8” or 3/4” meter, the initial LSLR surcharge will be \$4.51 per month.

b. In addition to the unrecovered amount of the Deferred Balance, the amount of the fixed monthly LSLR surcharge will be adjusted to reflect additional LSLR costs incurred from July 1, 2024 through December 31, 2027 as follows:

i. No later than October 1, 2024, the Company will make an initial semi-annual filing with the Board which will include its actual and forecasted customer-side LSLR costs for the period July 1, 2024 through December 31, 2024, as well as the total estimated future remaining costs for the period July 1, 2024 through December 31, 2027. In this initial semi-annual filing, Aqua will provide public notice for the estimated \$5,107,656 of remaining LSLR costs (beginning with costs Aqua expects to incur on and after July 1, 2024 through December 31, 2027). The Parties agree that Staff and Rate Counsel’s review period for this LSLR Surcharge initial semi-annual filing shall be extended from thirty (30) days to forty-five (45) days to allow for the public comment hearing process to proceed. No additional public comment hearings shall be required for subsequent semi-annual LSLR surcharge filings, as defined in this Stipulation. The fixed monthly LSLR surcharge reflecting actual and forecasted customer-side LSL replacements for the period July 1, 2024 through December 31, 2024, shall become effective on January 1, 2025.

ii. No later than May 1, 2025, the Company will make its second semi-annual filing which shall include a true up for actual customer-side LSLR costs for the prior six-

month period (July 1, 2024 through December 31, 2024) and actual and forecasted LSLR costs for the second semi-annual period (January 1, 2025 through June 30, 2025). The fixed monthly LSLR surcharge reflecting actual and forecasted customer-side LSLR costs for the period January 1, 2025 through June 30, 2025, plus the remaining unrecovered Deferred Balance, shall become effective on July 1, 2025.

iii. Subsequent semi-annual filings will be made no later than November 1 and May 1 for the remainder of the LSLR program period, with the effective date of the LSLR surcharge resulting from said filings to occur thirty (30) days after filing.

iv. Any grants or other funding to defray customer-side LSLR costs received by the Company will be reflected in the applicable subsequent semi-annual surcharge filings.

9. The Parties agree and recommend that the Board approve recovery of the Company's deferred COVID-19 expense regulatory asset balance of \$678,774, which will be recovered in base rates using a two (2)-year amortization period.

10. The Parties agree and recommend that the Board authorize the capitalization of the Company's costs of tank painting, consistent with the Board's adoption of the Uniform System of Accounts promulgated by the National Association of Regulatory Utility Commissioners.

11. The Parties agree that this filing included review of the Company's change in its tax accounting method as a result of the allowable Section 481(a) adjustment relating to flow through accounting and tax repair elections consistent with the procedure set forth in the Stipulation of Settlement in Aqua's 2018 water base rate case; specifically, that: Aqua made the Tax Repair method change for tax year 2022, and filed it with the IRS in 2023; the ten (10)-year amortization of the Section 481(a) Adjustment commenced in 2022 and the Company has continued the amortization through 2023, thus completing two (2) full years of amortization; and

the remaining amortization has been included in rates such that customers will get the benefit of this adjustment through the remaining amortization. Furthermore, the Parties agree that this filing included a review of the current and ongoing tax impacts related to the Company's Tax repair method change and that the estimated ongoing tax repair impacts have been included in cost-of-service rates.

12. The Parties agree and recommend that the Board approve the Company's request to use deferred accounting for the costs related to PFAS treatment, including capital investments and ongoing Operations & Maintenance expenses. The Company will create a regulatory asset for those deferred costs and will seek recovery of those costs in a future base rate case or Resiliency and Environmental System Investment Charge filing.

13. The Parties agree and recommend that the Board approve a change in the authorized depreciation rates applicable to the Company as reflected in **Exhibit D** to this Stipulation, which rates are supported by the comprehensive Depreciation Study submitted by the Company in this case and reflect the resolution of issues raised by the Parties during the settlement process related to such rates.

14. The Parties understand that a Board Order adopting this Stipulation will become effective upon the service of said Board Order, or upon such date after the service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

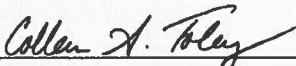
15. This Stipulation is the product of extensive negotiations by the Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues

upon which the Parties have stipulated herein. The Parties agree that the within Stipulation reflects a mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates, with any compromises being made in the spirit of reaching an agreement. None of the Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter.

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

AQUA NEW JERSEY, INC.

Date: August 27, 2024


By: SAUL EWING LLP
Colleen A. Foley, Esq.
Attorney for Petitioner

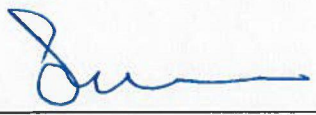
MATHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of
Public Utilities

Date: August 27, 2024


By: Meliha Arnautovic, Deputy Attorney General

BRIAN O. LIPMAN, ESQ., DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

Date: August 27, 2024


By: Susan E. McClure, Esq.
Deputy Rate Counsel