

Exhibit No.:

Issue(s): Riverton Unit 7 Depreciation Expense/
Vegetation Management Tracker/
Iatan 2, Iatan Common, and Plum Point
Operations and Maintenance
(O&M) Expense Trackers/
Advanced Coal Project Investment
(ITC) Over-Collection/
Riverton 12 Operations and Maintenance
(O&M) Expense Tracker Request/
Rate Case Expense/
Corporate Franchise Tax/
Prepayments/
Injuries and Damages

Witness/Type of Exhibit: Roth/Rebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2014-0351

REBUTTAL TESTIMONY

OF

KERI ROTH

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2014-0351

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**

**Denotes Highly Confidential Information
that has been Redacted**

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**REBUTTAL TESTIMONY
OF
KERI ROTH**

**EMPIRE DISTRICT ELECTRIC COMPANY
CASE NO. ER-2014-0351**

9 **I. INTRODUCTION**

10 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

11 A. Keri Roth, P.O. Box 2230, Jefferson City, Missouri 65102-2230.

12
13 Q. ARE YOU THE SAME KERI ROTH WHO HAS FILED DIRECT TESTIMONY IN
14 THIS CASE?

15 A. Yes.

16
17 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

18 A. The purpose of this rebuttal testimony is to respond to direct testimony from Empire
19 District Electric Company (Empire) and/or Missouri Public Service Commission
20 (MPSC) Staff regarding the following issues: Riverton Unit 7 depreciation expense,
21 vegetation management tracker, Iatan 2, Iatan Common, and Plum Point operations and
22 maintenance (O&M) expense trackers, advanced coal project investment tax credit over-

1 collection, Riverton Unit 12 O&M expense tracker request, rate case expense, corporate
2 franchise tax, prepayments, and injuries and damages.

3
4 **II. RIVERTON UNIT 7 DEPRECIATION EXPENSE**

5 Q. WHAT IS THE ISSUE?

6 A. Riverton Unit 7 was scheduled to be retired in 2016; however, Riverton Unit 7
7 experienced an unscheduled outage in June 2014. Empire determined it was not in the
8 Company or ratepayers' best interest to repair the unit, therefore, Empire retired
9 Riverton Unit 7 in June 2014. Empire has requested to continue to collect depreciation
10 expense on Riverton Unit 7 from rate payers even though the unit is retired.

11
12 Q. HOW DOES THE RETIREMENT OF RIVERTON UNIT 7 AFFECT EMPIRE'S
13 RATE BASE?

14 A. Empire witness, Mr. Robert Sager, explains in his direct testimony on page 3, lines 6 –
15 10:

16
17 Empire has adjusted the April 30, 2014, property investment to
18 account for the retirement of Unit 7 that occurred in June 2014, by
19 crediting FERC account 101 – Electric Plant in Service and
20 debiting 108 – Accumulated Provision – Electric Plant, for \$10.6
21 million total company. This entry does not result in a net change to
22 rate base.
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Q. WHY DOES EMPIRE WISH TO CONTINUE TO COLLECT DEPRECIATION
EXPENSE FOR RIVERTON UNIT 7?

A. It is Public Counsel's understanding that Empire is requesting to continue to collect depreciation expense for Riverton Unit 7, so the depreciation rates established in Case No. ER-2012-0345 can be preserved. Since Riverton Unit 7 was retired approximately two years earlier than scheduled, Empire apparently believes a reserve deficiency will occur if depreciation expense is not continued to be collected.

Q. PLEASE STATE THE UNIFORM SYSTEM OF ACCOUNTS (USOA)
INSTRUCTIONS FOR DEPRECIATING PLANT.

A. Electric Plant Instructions, Section 10.B.2 of the USOA states:

When a retirement unit is retired from electric plant, with or without replacement, the book cost thereof shall be credited to the electric plant account in which it is included, determined in the matter set forth in paragraph D, below. If the retirement unit is of a depreciable class, the book cost of the unit retired and credited to electric plant shall be charged to the accumulated provision for depreciation applicable to such property. The cost of removal and the salvage shall be charged or credited, as appropriate, to such depreciation account.

1 Q. PLEASE STATE THE DEFINITION OF ACCOUNT 403 – DEPRECIATION
2 EXPENSE AS STATED IN THE USOA.

3 A. Account 403 – Depreciation Expense per the USOA states:

4
5 A. This account shall include the amount of depreciation expense
6 for all classes of *depreciable electric plant in service* except such
7 depreciation expense as is chargeable to clearing accounts or to
8 account 416, Costs and Expenses of Merchandising, Jobbing and
9 Contract Work.

10
11 Emphasis added by Public Counsel.
12
13

14 Q. BASED ON THE INSTRUCTIONS FOR DEPRECIATING PLANT AND THE
15 DEFINITION OF ACCOUNT 403 – DEPRECIATION EXPENSE, AS STATED IN
16 THE USOA, DOES PUBLIC COUNSEL BELIEVE IT IS REASONABLE FOR
17 EMPIRE TO CONTINUE TO COLLECT DEPRECIATION EXPENSE FOR
18 RIVERTON UNIT 7?

19 A. No.
20

21 Q. DOES THE MPSC STAFF BELIEVE IT IS REASONABLE FOR EMPIRE TO
22 CONTINUE TO COLLECT DEPRECIATION EXPENSE FOR RIVERTON UNIT 7?

23 A. No. MPSC Staff's Cost of Service Report filed in direct testimony states on page 89,
24 lines 22 – 23:

1

2

Staff is not recommending continued depreciation expense for
Riverton 7 since it is no longer used and useful.

3

4

5

6

MPSC Staff's Cost of Service Report also states on pages 89, line 27 – page 90, line 1:

7

8

Adequate depreciation reserve funds exist to cover the retirement
of Riverton unit 7 at this time.

9

10

11

12

III. VEGETATION MANAGEMENT TRACKER

13

Q. WHAT IS THE ISSUE?

14

A. Empire has requested to continue its vegetation management tracker and reduce the tracker
base amount to \$11 million from the current base amount of \$12 million.

15

16

17

Q. WHAT IS PUBLIC COUNSEL'S CONCERN?

18

A. Public Counsel believes sufficient historical cost information exists to develop an on-going
annual level of expense because Empire has completed at least one full urban cycle and
rural cycle on the system and it is likely another cycle has begun. Thus, Public Counsel
believes that the tracker should be discontinued.

19

20

21

22

1 Q. WHAT IS MPSC STAFF'S POSITION REGARDING THE VEGETATION
2 MANAGEMENT TRACKER?

3 A. MPSC Staff has agreed to reduce the tracker base amount to \$11 million, as proposed by
4 Empire, and to continue the vegetation management tracker at least until Empire's next
5 rate case. Staff believes costs have fluctuated each month since Empire's last rate case,
6 therefore, Staff proposes to continue the tracker until costs stabilize.

7
8 Q. HAVE MONTHLY VEGETATION COSTS FLUCTUATED SINCE EMPIRE'S LAST
9 RATE CASE?

10 A. Yes, as would be expected, costs have fluctuated each month. However, when reviewing
11 costs during the twelve months ending April each year since Empire's last rate case, annual
12 vegetation management expense was \$13,626,324 for the twelve months ending April
13 2012, \$11,521,303 for the twelve months ending April 2013, and \$11,115,498 for twelve
14 months ending April 2014. Therefore, the costs have steadily decreased on an annual
15 basis.

16
17 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION?

18 A. Public Counsel believes current costs are relatively stable and recommends that the
19 vegetation management tracker be discontinued. Public Counsel also recommends the

1 annualized vegetation management expense be set at the current test year expense level of
2 \$11,115,498.
3

4 **IV. IATAN 2, IATAN COMMON, AND PLUM POINT OPERATIONS AND**
5 **MAINTENANCE (O&M) EXPENSE TRACKERS**

6 Q. WHAT IS THE ISSUE?

7 A. Empire has requested to continue the Iatan 2, Iatan Common, and Plum Point O&M
8 expense trackers and adjust the tracker base expense levels.
9

10 Q. WHAT IS THE MPSC STAFF'S POSITION REGARDING THE IATAN 2, IATAN
11 COMMON, AND PLUM POINT O&M EXPENSE TRACKERS?

12 A. MPSC Staff states in its Cost of Service Report, filed in direct testimony, on page 99, lines
13 6 – 7:
14

15 For this case, Staff is recommending a discontinuation the O&M
16 tracker initially established in Case No. ER-2011-004 for Iatan 2,
17 Iatan Common and Plum Point.
18
19

20 MPSC Staff's Cost of Service Report, on page 99, lines 17 – 19, also states:
21

1 In this case, Staff determined a normalized level of the O&M
2 expenses for Iatan 2, Iatan Common, and Plum Point. Staff's
3 adjustment is based on a four-year average of actual maintenance
4 costs associated with these generating facilities.
5
6

7 Staff has included ** ** of expense for Iatan 2, ** ** of expense for
8 Iatan Common, and ** ** of expense for Plum Point.
9

10 Q. WHAT ARE THE CURRENT AUTHORIZED TRACKER BASE EXPENSE LEVELS
11 FOR IATAN 2, IATAN COMMON, AND PLUM POINT?

12 A. As stated in the Nonunanimous Stipulation and Agreement filed, and approved by the
13 Commission, in Case No. ER-2012-0345, the tracker base expense level for Iatan 2 is
14 currently set at \$2,297,061, Missouri jurisdictional, Iatan Common is currently set at
15 \$2,590,005, Missouri jurisdictional, and Plum Point is currently set at \$2,375,822,
16 Missouri jurisdictional.
17

18 Q. WHAT ADJUSTMENTS IS EMPIRE PROPOSING TO THE TRACKER BASE
19 EXPENSE LEVELS?

20 A. Empire witness, Mr. Blake Mertens, states in his direct testimony on page 7, lines 20 – 23,
21 and page 8, lines 1 – 2:
22

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1 Empire is proposing to rebase the O&M trackers for Iatan Unit 2,
2 Iatan Common, and Plum Point, to \$1,872,745 Missouri
3 jurisdictional, \$2,144,836 Missouri jurisdictional, and \$2,103,017
4 Missouri jurisdictional, respectively. This level of expense
5 represents the four year average of non-labor operations and
6 maintenance expenses, adjusted to reflect the annual change in the
7 PPI, test year labor, and test year non-labor administrative and
8 general expenses.
9
10

11 Q. DOES EMPIRE OWN 100% OF IATAN 2, IATAN COMMON, AND PLUM POINT?

12 A. No. Empire owns 12% of Iatan 2 and Iatan Common. Kansas City Power & Light
13 Company (KCPL) is the majority owner. Also, Empire owns 7.52% of Plum Point.
14

15 Q. DOES KCPL CURRENTLY HAVE COMMISSION AUTHORIZED O&M TRACKERS
16 FOR IATAN 2, IATAN COMMON, AND PLUM POINT?

17 A. Yes. However, KCPL has requested to discontinue the trackers in its current rate case
18 filing, Case No. ER-2014-0370.
19

20 Q. DOES PUBLIC COUNSEL RECOMMEND THAT EMPIRE'S O&M TRACKERS FOR
21 IATAN 2, IATAN COMMON, AND PLUM POINT BE DISCONTINUED?

22 A. Yes. Public Counsel believes there is enough historical cost information now available to
23 determine an annual level of O&M expense. Also, since KCPL believes, and Public
24 Counsel agrees, the tracking mechanisms are no longer needed for Iatan 2 and Iatan

1 Common, it seems reasonable that the Iatan 2 and Iatan Common O&M trackers for
2 Empire, as well as the Plum Point O&M tracker, be discontinued as well.

3
4 Q. WHAT IS THE ANNUALIZED LEVEL OF IATAN 2, IATAN COMMON, AND PLUM
5 POINT O&M EXPENSE PUBLIC COUNSEL IS RECOMMENDING?

6 A. Public Counsel recommends an annualized level of O&M expense of ** ** for
7 Iatan 2, ** ** for Iatan Common, and ** ** for Plum Point. There
8 is a minor difference of \$502 between the MPSC Staff and Public Counsel for Iatan
9 Common expenses due to Staff not including costs from general ledger account 542307
10 and general ledger account 570177.

11
12 V. **ADVANCED COAL PROJECT INVESTMENT TAX CREDIT (ITC) OVER-**
13 **COLLECTION**

14 Q. WHAT IS THE ISSUE?

15 A. In Case No. ER-2011-0004, customers began receiving the benefit of the Advanced Coal
16 Project ITC in 2011 by reducing rates, due to Empire's investment in the Iatan 2 plant.
17 However, Empire did not utilize the Advanced Coal Project ITC on its 2011 tax return. As
18 a result, a concern was raised in Empire's last rate case that customers were provided the
19 benefit of the Advanced Coal Project ITC related to the investment in the Iatan 2 plant
20 before Empire utilized the credit on its tax return. To address this, the Commission-

1 approved Stipulation and Agreement from Case No. ER-2012-0345 included the following
2 on page 4:
3

4 e. Authorize the tracking of revenue related to the recovery of an
5 Iatan 2 ITC tax liability of \$266,150.
6
7

8 Empire subsequently over-collected \$205,593 for ITC tax liability as of December 31,
9 2014.
10

11 Q. HOW DOES EMPIRE RECOMMEND THE OVER-RECOVERY OF THE
12 ADVANCED COAL PROJECT ITC BE RETURNED TO CUSTOMERS?

13 A. Empire witness, Mr. Scott Keith, states in his direct testimony on page 23, lines 3 – 8:
14

15 Empire recommends that the balance in the ITC recovery account at
16 February 28, 2015, be included in the FAC calculation at that date as
17 a reduction in energy costs. This treatment will ensure the return of
18 this money to Empire's Missouri customers, and eliminates the
19 swings in cost recovery that ultimately takes place trying to reflect
20 this sort of non-recurring issue in a general rate case using a
21 historical test year to establish a revenue requirement.
22
23

24 Q. HAS THE MPSC STAFF MADE A RECOMMENDATION ON HOW THE ITC OVER-
25 COLLECTION SHOULD BE RETURNED TO CUSTOMERS?

1 A. No. At the time this testimony is written, Staff has not included the ITC over-recovery in
2 its case.

3
4 Q. DOES PUBLIC COUNSEL AGREE WITH EMPIRE'S RECOMMENDATION TO
5 RETURN THE ITC OVER-COLLECTION TO CUSTOMERS THROUGH THE FAC?

6 A. No, Public Counsel does not agree with Empire's recommendation. Please see Public
7 Counsel witness, Lena Mantle's, rebuttal testimony for further information regarding
8 Public Counsel's reasoning for its disagreement with Empire's proposal to utilize the FAC
9 to return this over-collection to customers.

10
11 Q. WHAT IS PUBLIC COUSEL'S RECOMMENDATION REGARDING HOW THE ITC
12 TAX LIABILITY OVER-COLLECTION IS RETURNED TO CUSTOMERS?

13 A. Public Counsel recommends refunding the over-collection as of the end of December 2014
14 through rates via an amortization of the balance over a period of 24 months. Additional
15 over-recovery from January 2015 through July 2015 will be reviewed during Empire's next
16 rate case which is expected to be filed in late 2015 or early 2016.

17
18 **VI. RIVERTON 12 OPERATIONS AND MAINTENANCE (O&M) EXPENSE**
19 **TRACKER REQUEST**

20 Q. WHAT IS THE ISSUE?

1 A. Effective January 1, 2015, Empire has joined in a contract with Siemens Instrumentation,
2 Controls and Electrical Group for the O&M expense related to Riverton Unit 12. Empire
3 believes significant changes in operating hours may occur which will cause significant
4 changes in costs. Therefore, Empire is requesting an expense tracker for Riverton Unit 12,
5 similar to the O&M expense trackers currently in place for Iatan 2, Iatan Common, and
6 Plum Point.

7
8 Q. WHY DOES EMPIRE BELIEVE SIGNIFICANT CHANGES IN OPERATING HOURS
9 MAY OCCUR?

10 A. Empire is currently in the process of converting Riverton Unit 12 to a combined cycle unit.
11

12 Q. WHAT IS THE MPSC STAFF'S POSITION REGARDING THIS ISSUE?

13 A. MPSC Staff's Cost of Service Report filed in direct testimony states on page 3, lines 1 – 5:
14

15 Staff does not believe a tracker is appropriate for this cost at this
16 time. Staff has also not included any additional expense in its cost of
17 service for this new contract, since the contract became effective
18 January 1, 2015, which is outside the update test year (12 months
19 ending August 31, 2014) for this rate case proceeding. Staff will
20 examine this cost in its true-up recommendation.
21
22

1 Q. DOES PUBLIC COUNSEL BELIEVE A TRACKER SHOULD BE AUTHORIZED FOR
2 RIVERTON UNIT 12'S OPERATIONS AND MAINTENANCE EXPENSE?

3 A. No. The contract with Siemens Instrumentation, Controls and Electrical Group (Siemens)
4 for Riverton Unit 12 did not go into effect until January 1, 2015, which is outside of the
5 update and true-up period for this rate case.

6
7 It is Public Counsel's understanding, based on discussions with Empire, that the rate case
8 to be filed in late 2015 or early 2016 will address the conversion of Riverton Unit 12 to a
9 combined cycle unit. Furthermore, **

10
11 ** Since the project has not been completed, and
12 the contract with Siemens became effective outside of the update period for this case,
13 Public Counsel does not recommend a tracker for the current case, but will review this
14 issue again in the next rate case.

15
16 **VII. RATE CASE EXPENSE**

17 Q. WHAT IS THE ISSUE?

18 A. The issue concerns the proper amount of rate case expense Empire should be authorized to
19 include in the development of future rates in the current case.
20

1 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THE ISSUE?

2 A. Public Counsel's position is that the amount of rate case expense, included in the
3 development of rates for the current case, should only include a normalized annual level of
4 charges that directly benefit ratepayers. Since shareholders actually benefit from the rate
5 case activities from which these charges derive much more than ratepayers do, it is just and
6 reasonable that shareholders should cover some of these charges.

7
8 Q. HOW DO BOTH SHAREHOLDERS AND RATEPAYERS BENEFIT FROM THE
9 ACTIVITIES ASSOCIATED WITH GENERAL RATE INCREASE CASES?

10 A. Customers have an interest in ensuring that their utilities' rates are just and reasonable,
11 which is the ultimate objective of any rate case, whether it results in an increase or decrease
12 in a given utility's rates. Additionally, both shareholders and ratepayers benefit in many
13 ways from a strong stable organization that has competent management at its helm. Since
14 a utility must be able to respond to stakeholders with the services that they expect, the
15 utility must be able to access debt and equity markets at competitive rates in order to fund
16 its operations. That entails that the earnings capacity of the utility must be sufficient to
17 fund its construction and operational processes while providing an adequate return to
18 shareholders. In addition, operational processes must be able to fulfill the utility's
19 commitments of safe and reasonably priced service to ratepayers. All of which can only be
20 done if the utility is allowed the opportunity to recover a reasonable return on its

1 investment and recover prudent, reasonable and necessary expenses. General rate increase
2 cases provide the avenue upon which the utility seeks to obtain the proper revenue
3 requirement (i.e., rates) which will allow it to meet operational expectations.
4

5 Q. IS IT REASONABLE FOR THE COMMISSION TO UTILIZE A SHARE MECHANISM
6 FOR RATE CASE EXPENSE?

7 A. Yes. The Commission routinely disallows costs which provide no benefit to the customer.
8 For example, utility costs for items such as advertising and corporate incentives and
9 bonuses benefit only the shareholders and as a result are routinely removed from customer
10 rates. In a rate case, many issues before the Commission such as return on equity benefit
11 only the shareholders. Therefore, it is just and reasonable that shareholders share in the
12 costs of bringing the rate case expense before the Commission.
13

14 Q. HAVE OTHER STATES UTILITZED A SHARING MECHANISM FOR RATE CASE
15 EXPENSE?

16 A. Yes. Aqua New Jersey Inc., Maxim Wastewater Division filed Case No. WR11080472
17 with the State of New Jersey Board of Public Utilities on August 8, 2011, to gain approval
18 of a Purchased Sewerage Treatment Adjustment Clause. As shown on Schedule KNR-1,
19 the Parties entered into a Stipulation agreeing:
20

1 c. Total rate case costs for this proceeding of \$18,947 (Exhibit A,
2 page 4). These costs will be shared 50/50 between ratepayers and
3 shareholders resulting in a cost to customers of \$9,474 (Exhibit A,
4 page 6).
5
6

7 Q. ARE THERE ADDITIONAL CASES THAT HAVE UTILIZED A SHARING
8 MECHANISM FOR RATE CASE EXPENSE?

9 A. Yes. As shown in Schedule KNR-2, in Case No. WR11070460, New Jersey American
10 Water entered into an approved Stipulation which stated:
11

12 8. Normalization of Regulatory Commission Expense. The parties
13 stipulate that the Company incurred rate case expenses for this
14 proceeding. Said rate case expense will be shared 50/50 between the
15 Company and ratepayers, and normalized over two years.
16
17

18 Q. WHAT COSTS ASSOCIATED WITH GENERAL RATE INCREASE CASES SHOULD
19 BE RECOVERED FROM RATEPAYERS?

20 A. Costs associated with general rate increase cases should first be analyzed to determine if
21 they are prudent, reasonable and necessary. Those that are determined not prudent,
22 reasonable or necessary should not be reimbursed by ratepayers. For example, costs
23 incurred by Empire personnel, outside legal and outside consultants that are determined
24 imprudent, unreasonable or unnecessary should be disallowed. In addition, if the utility
25 has employees capable of developing and supporting the general rate increase case, the

1 unnecessary cost of hiring higher-priced outside legal or consultants should not be allowed.

2
3 Once the Commission determines the prudent, reasonable and necessary costs, Public
4 Counsel believes it is reasonable that the balance should then be split evenly between
5 shareholders and ratepayers as these costs represent charges associated with activities that
6 primarily benefit shareholders. Only the portion allocated to ratepayers would be included
7 in the development of future rates by normalizing the cost commensurate with Empire's
8 average general rate case history.

9
10 Q. HAVE YOU REVIEWED EMPIRE'S ESTIMATED COSTS TO DEVELOP AND
11 PROCESS THE INSTANT CASE?

12 A. Yes. A breakdown of estimated rate case expense can be found in Empire's workpapers
13 supporting its direct filing. The breakdown of the costs is as follows:

14

Legal/Consultation	\$250,000
Cost of Service	\$75,000
Travel	\$26,000
Publications	\$2,500
Other	\$3,500
TOTAL	\$357,000

15
16 Therefore, Empire has estimated that \$357,000 may be expended to process the instant
17 case.

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Q. WHAT IS THE AMOUNT OF RATE CASE EXPENSE THAT HAS ACTUALLY BEEN INCURRED FOR THE INSTANT CASE?

A. To date, the amount of rate case expense that has been incurred for the instant case is \$115,599. The breakdown of the costs is as follows:

Scott Keith		\$515
Black & Veatch	Cost of Service/Rate Design	\$68,652
Brydon, Swearingen & England P.C.	Legal Counsel	\$24,340
Worldwide Express		\$480
White Lion Communications		\$88
Financial Strategy Associates	ROE Consultant	\$15,831
Fast Copy Printing		\$2,785
Xpedx		\$2,907
TOTAL		\$115,599

Q. WHAT PERCENT OF THE REVENUE REQUIREMENT IS RELATED TO RETURN ON EQUITY?

A. Based on the MPSC Staff's Accounting Schedules filed in direct testimony, 24.71% of the revenue requirement is related to return on equity.

Q. WHAT PERCENT OF THE REVENUE REQUIREMENT IS RELATED TO OPERATING EXPENSES?

1 A. Based on the MPSC Staff's Accounting Schedules filed in direct testimony, 75.29% of the
2 revenue requirement is related to total operating expenses.
3

4 Q. WHAT IS THE PERCENTAGE OF RATE CASE EXPENSE AS IT RELATES TO
5 TOTAL OPERATING EXPENSES?

6 A. Public Counsel has calculated that rate case expense is approximately 0.0335% of total
7 operating expenses. Public Counsel has calculated this amount using the MPSC Staff's
8 Accounting Schedules in direct testimony by removing the MPSC Staff's calculated rate
9 case expense and including its own calculation of total rate case expense of \$115,599.
10

11 Q. WHY IS THE PERCENTAGE OF RATE CASE EXPENSE AS IT RELATES TO
12 TOTAL OPERATING EXPENSES RELEVANT?

13 A. Public Counsel believes that, in addition to benefits shared between shareholders and rate
14 payers discussed previously, rate case expense is such a small dollar amount compared to
15 total operating expenses, it is reasonable that rate case expense should be shared between
16 shareholders and rate payers.
17

18 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING RATE CASE
19 EXPENSE?

1 A. These costs are a moving target in that they will continue to be incurred through the end of
2 the update and true-up periods, however, Public Counsel recommends that the rate case
3 expense costs be shared 50/50 between shareholders and rate payers. The shareholder
4 portion of rate case expense should then be normalized over 2 years. In addition, Public
5 Counsel recently has submitted data requests seeking information regarding in-house
6 employees in order to help Public Counsel make a determination on the reasonableness of
7 the outside legal and consulting charges. Public Counsel will update the Commission on
8 its recommendation in later testimony as appropriate.
9

10 **VIII. CORPORATE FRANCHISE TAX**

11 Q. WHAT IS THE ISSUE?

12 A. On April 26, 2011, Governor Jay Nixon signed Senate Bill 19, which gradually phases out
13 Missouri's corporate franchise tax over the next five years and ending the franchise tax by
14 2016. The 2015 tax year rate decreases to 1/150th of 1% from the 2014 tax year rate of
15 1/75th of 1% and is discontinued entirely for the 2016 tax year. Empire has included in its
16 case an annual level of expense from test year twelve-months ending April 30, 2014 of
17 \$318,493, Missouri jurisdictional.
18

19 Q. WHAT IS THE MPSC STAFF'S POSITION REGARDING CORPORATE FRANCHISE
20 TAX?

1 A. The MPSC Staff states in its Cost of Service Report filed in direct testimony on page 101,
2 lines 17 – 18:

3
4 Staff's recommendation for franchise tax expense is to annualize the
5 corporate franchise tax. Staff used the franchise tax rate for the tax
6 year of 2015, multiplied by the company's total assets which are
7 located on line 6 of the Schedule MO-FT.
8
9

10 MPSC Staff has included an annualized level of \$114,578 for corporate franchise tax
11 expense. Staff has calculated this amount by multiplying the 2015 tax year rate by the total
12 assets listed on line 6 of the 2014 Schedule MO-FT.
13

14 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING HOW THE
15 CORPORATE FRANCHISE TAX EXPENSE SHOULD BE TREATED IN RATES AS
16 A RESULT OF THIS CASE?

17 A. In 2014, Empire's corporate franchise tax liability was \$227,446. However, the corporate
18 franchise tax rate decreases by 50% in 2015 and will be zero beginning in 2016. Public
19 Counsel requested additional documents from Empire that would support Empire's actual
20 2015 tax year liability, but Empire has not provide the information requested.
21

1 Public Counsel believes Empire's 2015 corporate franchise tax liability will be
2 approximately one-half of its 2014 tax year liability, or \$113,723. Since the 2015 tax
3 liability is the last year Empire will incur corporate franchise tax, Public Counsel
4 recommends normalizing the corporate franchise expense over a period of 18 months.
5 Public Counsel is recommending 18 months, because it is expected that Empire will be
6 returning for another rate case in late 2015 or early 2016. The timeline for a rate case is 11
7 months; therefore, if Empire files a new rate case as expected, rates resulting from this case
8 will have been in place for approximately 16 months.
9

10 **IX. PREPAYMENTS**

11 Q. WHAT IS THE ISSUE?

12 A. It is Public Counsels' understanding that Empire has included three prepayment accounts
13 in its 13- month average calculation to determine the correct dollar amount of
14 prepayments to include in rate base. Empire has included Working Funds Iatan,
15 Working Funds Plum Point, and KCPL Land Lease. The MPSC Staff has removed these
16 three prepayment accounts from its calculation, because the accounts are cash accounts.
17

18 Q. WHAT IS THE MPSC STAFF'S POSITION?

1 A. The MPSC Staff has calculated a 13-month average ending August 2014, excluding
2 Working Funds Iatan, Working Funds Plum Point, and KCPL Land Lease. The total
3 amount of prepayments the MPSC Staff has included in rate base totals \$4,655,931.
4

5 Q. DOES PUBLIC COUNSEL HAVE A POSITION REGARDING PREPAYMENTS?

6 A. Yes. Public Counsel has reviewed prepayments workpapers provided by the MPSC
7 Staff and Empire and believes that the MPSC Staff's approach is reasonable.
8

9 **X. INJURIES AND DAMAGES**

10 Q. WHAT IS THE ISSUE?

11 A. It is Public Counsels' understanding that Empire has included a pro forma annual level
12 of injuries and damages expense totaling ** **, Missouri jurisdictional, based
13 on test year expenses.
14

15 Q. WHAT IS THE MPSC STAFF'S RECOMMENDATION REGARDING INJURIES
16 AND DAMAGES?

17 A. The MPSC Staff has utilized a 5-year average of actual payments to normalize this
18 expense, because costs have fluctuated considerably in the past 5 years. The MPSC Staff
19 has included an annual level of injuries and damages expense totaling ** **.
20

1 Q. DOES PUBLIC COUNSEL HAVE A POSITION REGARDING INJURIES AND
2 DAMAGES EXPENSE?

3 A. Yes. Public Counsel has reviewed injuries and damages expense workpapers provided
4 by the MPSC Staff and Empire and believes that the MPSC Staff's approach is
5 reasonable.

6
7 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

8 A. Yes, it does.



STATE OF NEW JERSEY
Board of Public Utilities
44 S. Clinton Avenue, P.O. Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF THE PETITION OF AQUA) WATER
NEW JERSEY, INC., MAXIM WASTEWATER DIVISION,)
FOR APPROVAL OF A 2010 PURCHASED) ORDER ADOPTING
WASTEWATER TREATMENT ADJUSTMENT CLAUSE) INITIAL DECISION/STIPULATION
TRUE-UP AND OTHER REQUIRED APPROVALS)

BPU DOCKET NO. WR11080472
OAL DOCKET NO. PUC 10624-2011N

Colleen A. Foley, Esq., Saul Ewing, LLP, on behalf of the Petitioner, Aqua New Jersey, Inc., Maxim Wastewater Division

Stefanie Brand, Esq., Director on behalf of the Division of Rate Counsel

BY THE BOARD:

On August 8, 2011, Aqua New Jersey Inc., Maxim Wastewater Division ("Maxim" or "Petitioner"), a public utility of the State of New Jersey, pursuant to N.J.A.C. 14:9-7.1 et seq., filed a petition with the Board of Public Utilities ("Board") seeking approval of a Purchased Sewerage Treatment Adjustment Clause ("PSTAC") true-up for calendar year 2010, and to set prospective rates for calendar year 2012 (as required by N.J.A.C. 14:9-7.7).

By this Order, the Board considers the Initial Decision recommending adoption of the Stipulation of Settlement ("Stipulation") executed by the Petitioner, the Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff") (collectively, the "Parties"), agreeing to an overall increase in Maxim's PSTAC revenues totaling \$63,414.

BACKGROUND/PROCEDURAL HISTORY

Maxim is a wastewater utility engaged in the collection and transmission of sewage. Maxim serves approximately 2,571 customers within a portion of Howell Township, Monmouth County, New Jersey. The Ocean County Utilities Authority ("OCUA") receives and treats all of the sewage transmitted by Maxim.

On August 18, 2011, this matter was transmitted to the Office of Administrative Law ("OAL") and assigned to Administrative Law Judge ("ALJ") Mumtaz Bari-Brown. On September 29, 2011, a telephone pre-hearing conference was conducted by ALJ Bari-Brown and a pre-hearing Order was subsequently issued by ALJ Bari-Brown on October 4, 2011. On November 1, 2011, a public hearing was held at the Howell Township Public Library. No members of the public were in attendance to provide comments on the proposed PSTAC proceeding. There were no Interveners in this matter.

In this proceeding, the Parties, examined the Petitioner's revenues and OCUA expenses for calendar year 2010, Maxim's projected 2012 OCUA expenses, as well as a review of the costs associated with the filing of this proceeding. Based on that review, and subsequent settlement negotiations, the Parties reached a settlement on all issues and entered into a Stipulation that, among other things, provides for an overall increase in Maxim's PSTAC revenues totaling \$63,414, and is calculated based on the following components:

- a. An under-recovery of actual PSTAC charges of approximately \$78,553 for the calendar year ending December 31, 2010 (Exhibit A, pages 1 to 3);
- b. An estimated PSTAC revenue shortfall for 2012 of \$13,788 as a result of increased OCUA rates effective January 1, 2012 (Exhibit A, page 5); and
- c. Total rate case costs for this proceeding of \$18,947 (Exhibit A, page 4). These costs will be shared 50/50 between ratepayers and shareholders, resulting in a cost to customers of \$9,474 (Exhibit A, page 6).

As required in N.J.A.C. 14:9-7.7 and the Board's Order in Docket No. WR10070464, the Petitioner has included in its filing an estimate of OCUA costs for calendar year 2012, which estimate has been used to determine the applicable PSTAC rate for 2012.

Based on the estimated rates for 2012, the under-recovery for 2010, and the rate case costs of this proceeding, the Parties have agreed that Petitioner's current PSTAC rates on file with the Board should be revised pursuant to the rates indicated on Exhibit A, attached hereto. For the average residential customer, the annual flat PSTAC rate will increase from \$364.10 to \$388.06, an annual increase of \$23.96 or approximately 6.58%. With respect to the total annual rate for wastewater services, the total annual rate for the average residential customer will increase from \$668.10 to \$692.06, an increase of \$23.96 or approximately 3.59% annually.

On December 5, 2011, ALJ Bari-Brown issued her Initial Decision recommending adoption of the Stipulation executed by the Parties, finding that the Parties had voluntarily agreed to the Stipulation and that the Stipulation fully disposes of all issues and was consistent with the law.

DISCUSSIONS AND FINDINGS

Having reviewed the record in this matter, including ALJ Bari-Brown's Initial Decision, as well as the Stipulation among the Parties to this proceeding, the Board HEREBY FINDS that the Stipulation is reasonable, in the public interest and is in accordance with the law.

Therefore, the Board HEREBY ADOPTS ALJ Bari-Brown's Initial Decision adopting the Stipulation of the Parties attached hereto, including all attachments and schedules, as its own, incorporating the terms and conditions as if fully set forth at length herein subject to the following:

- a. In accordance with the provisions of N.J.A.C. 14:9-7.1 and 14:9-7.7, the Petitioner shall file with the Board, no later than 45 days after the adjustment clause has been in effect for one year, or by February 28, 2012, whichever is earlier, a PSTAC true-up filing in connection with this proceeding. This filing shall include an estimate of the OCUA costs for calendar year 2013. Copies of the true-up filing shall be served upon all parties to the present proceeding.
- b. Petitioner shall increase its PSTAC rates at the stipulated level as shown on Exhibit A (Rate Design), attached to the Stipulation.

The Board HEREBY DIRECTS the Company to file tariff pages conforming to the terms and conditions of the Stipulation and this Order within ten (10) days from the effective date of this Order.


This Order shall be effective on December 24, 2011

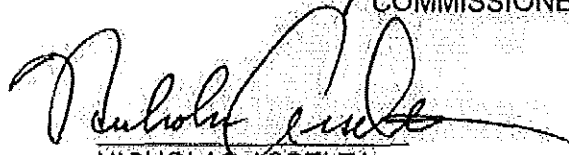
DATED: 12/15/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

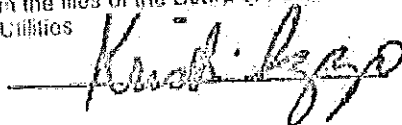

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

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 THE AQUA
NEW JERSEY, INC., MAXIM WASTEWATER DIVISION,
FOR APPROVAL OF A 2010 PURCHASED WASTEWATER
TREATMENT ADJUSTMENT CLAUSE TRUE-UP AND
OTHER REQUIRED APPROVALS

BPU DOCKET NO. WR11080472
OAL DOCKET NO. PUC 10624-2011N

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 10624-1

AGENCY DKT. NO. WR110080472

**I/M/O THE PETITION OF AQUA NEW
JERSEY INC., MAXIM WASTEWATER
DIVISION, FOR APPROVAL OF A 2010
PURCHASED WATSEWATER ADJUSTMENT
CLAUSE TRUE-UP AND OTHER REQUIRED
APPROVALS.**

Colleen A. Foley, Esq., for petitioner (Saul Ewing, LLP, attorneys)

Susan E. McClure, Esq., for the Division of Rate Counsel (Stefanie A. Brand,
Director)

Alex Moreau, Deputy Attorney General, for the staff of the New Jersey Board of
Public Utilities (Paula T. Dow, Attorney General of the State of New
Jersey, attorney)

Record Closed: November 30, 2011

Decided: December 5, 2011

BEFORE MUMTAZ BARI-BROWN, ALJ

Schedule KNR-1

6 of 7

This matter was filed by the Petitioner, Aqua New Jersey, Inc. (and its Maxim Wastewater Division), on August 8, 2011. On August 26, 2011, the matter was transmitted to the Office of Administrative Law as a contested case. A prehearing conference (via telephone) was convened by the undersigned on September 29, 2011. After proper notice, a public hearing in the service territory was held in Howell, New Jersey on the evening of November 1, 2011. No members of the public appeared or sought to be heard on the Company's request.

The Company provided responses to discovery requests and updates to its original filing. Thereafter, settlement discussions were held among the parties, and the parties reached an agreement on the issues in this matter. On November 30, 2011, the OAL received the fully executed Stipulation indicating the terms of the settlement. A copy of the Stipulation of Settlement is attached and is made a part hereof.

After reviewing the record and the Stipulation of Settlement, I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by the signatures of the parties or the signatures of their representatives.
2. The settlement fully disposes of the issues in controversy and is consistent with the law and is in the public interest.
3. The Stipulation of Settlement has been signed by all parties.

Therefore, I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and should be approved. It is further **ORDERED** that the parties comply with the settlement terms and the proceedings be **CONCLUDED**.

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



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF)	ORDER ADOPTING INITIAL
NEW JERSEY AMERICAN WATER COMPANY,)	DECISION/STIPULATION
INC. FOR APPROVAL OF INCREASED TARIFF)	
RATES AND CHANGES FOR WATER AND)	
SEWER SERVICE; CHANGE IN DEPRECIATION)	BPU DOCKET NO. WR11070460
RATES AND OTHER TARIFF MODIFICATIONS)	OAL DOCKET NO. PUC 09799-2011N

Parties of Record:

Ira G. Megdal, Esq., Counsel on behalf of New Jersey American Water Company, Inc.,
Petitioner
Stefanie A. Brand, Esq., Director, on behalf of the Division of Rate Counsel
Kenneth J. Quinn, Esq., Intervenor, on behalf of Middlesex Water Company
Steven B. Genzer, Esq., Intervenor, on behalf of Aqua New Jersey, Inc. and the Lawrenceville
Water Company
Bradford M. Stern, Esq., Intervenor, on behalf of ConocoPhillips Company, Cogen
Technologies Linden Venture L.P., Johanna Foods, Inc., Princeton University and Rutgers, The
State University of New Jersey
Anthony R. Francioso, Esq., Intervenor, on behalf of the Mount Laurel Township Municipal
Utilities Authority (MLTMUA)
Walter G. Reinhard, Esq., Intervenor, on behalf of the Manasquan Customer Group
Richard A. Gantner, Esq., Participatory Party, on behalf of Local 423 of the Utility Workers
Union of America, AFL-CIO

BY THE BOARD:

On July 29, 2011, New Jersey American Water Company ("Company" or "Petitioner"), a public utility of the State of New Jersey filed with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-18, N.J.S.A. 48:2-21, N.J.S.A. 48:2-21.1¹, N.J.A.C. 14:1-5.7 and N.J.A.C. 14:1-5.12, a petition ("Petition") seeking to increase rates for water and wastewater service. The combined proposed rates would increase the Company's annual revenues by \$95.5 million or approximately 15.5% over pro-forma present rate revenues of \$565 million. The Company also

¹The Board notes that although the petition cites N.J.S.A. 48:2-21.1, the petition does not include a request for an adjustment of rates during the pendency of the hearing.

proposed to implement a multi-faceted Conservation Program; Water Efficiency and Conservation Plan (Decoupling Mechanism) Trackers; Water Stewardship and Green Energy Initiatives; a Water Storage Tank Reinvestment Program; Deferred Accounting of costs associated with One Call Customer Side Markouts; and to update a component of its Depreciation Rates (Net Salvage Value).

The following parties were granted intervention status - Middlesex Water Company ("Middlesex") (by Order dated September 6, 2011); Aqua New Jersey and Lawrenceville Water Company ("Aqua") (by Order dated November 16, 2011); ConocoPhillips Company, Cogen Technologies Linden Venture L.P., Johanna Foods, Inc., Princeton University and Rutgers, The State University of New Jersey (collectively "the OIW Group") (by Order dated November 16, 2011); Manasquan Customer Group ("MCG") (by Order dated November 21, 2011); and the Mount Laurel Township Municipal Utilities Authority ("MLTMUA") (by Order dated December 28, 2011). The Utility Workers of America, Local 423 ("Local 423") filed a Motion to Intervene which was opposed by the Company. By letter dated December 7, 2011, Local 423 requested that its Motion be modified to request permission for participant status only, which request was granted by Order dated December 17, 2011.

By this Order, the Board considers the Initial Decision recommending adoption of the Stipulation of Settlement ("Stipulation") executed by the Company, the Division of Rate Counsel, the OIW Group, MCG and Board Staff (collectively the "Signatory Parties"), agreeing to an overall increase in revenues in the amount of \$30,009,522 representing a 5.23% increase² over Company revenues totaling \$573,969,770. The Parties propose that these rates will be effective on May 1, 2012. The remaining parties, namely Middlesex, Aqua and the MLTMUA all submitted letters not objecting to the Settlement.

BACKGROUND/PROCEDURAL HISTORY

Petitioner serves approximately 649,122 water and wastewater customers in all or part of 189 municipalities in 18 of the State's 21 counties. The increase in rates was proposed to become effective on August 29, 2011³. By Order dated September 22, 2011, with an effective date of October 1, 2011, the Board suspended the Company's proposed rate increase until December 29, 2011, and by Order dated November 30, 2011, with an effective date of December 10, 2011, the Board further suspended the Company's proposed rate increase until April 29, 2012⁴. The Petitioner did not seek interim rate relief pending final determination on the petition.

According to the petition, the rate increase is required to enable the Petitioner to establish an income level that will permit the Company to finance essential and continuing plant investment; to permit the Company to earn a fair and adequate rate of return on its net investment in used and useful property; to establish rates which will be sufficient to enable the Company to

²The overall percentage increase of 5.23% excludes the impact of the PWAC/PSTAC. As set forth in the stipulation, the percentage increase including the PWAC/PSATC would be 4.82%.

³On August 25, 2011, the Company filed a letter with the Board revising the effective date from August 29, 2011 to October 1, 2011. The Company further stated that although it revised its initial effective date from August 29, 2011 to October 1, 2011, the four (4) month suspension period will still run from August 29, 2011 through December 29, 2011.

⁴By letter dated April 25, 2012, the Company stated that it would not seek to implement rates prior to May 1, 2012.

maintain and support its financial integrity; to offset increases in operating expenses; to provide earnings sufficient to attract investors and provide sufficient cash flow to fund the Company's operations; and to enable the Company to provide safe, adequate and proper service to its customers.

This matter was transmitted to the Office of Administrative Law ("OAL") on August 1, 2011, and was assigned to Administrative Law Judge ("ALJ") Leland S. McGee. ALJ McGee conducted a pre-hearing conference on September 4, 2011, and on October 26, 2011, ALJ McGee issued a pre-hearing Order establishing procedures, as well as evidentiary and public hearing dates for the conduct of this case.

Four public hearings were held in this matter. Two public hearings were held on December 6, 2011, one at 2:00 pm in Ocean City, NJ, and one at 7:00 pm in Westampton, NJ. Two public hearings were held on December 14, 2011, one at 2:00 pm in Howell Township, NJ and one at 7:00 pm in Westfield, NJ. No members of the public appeared at the Ocean City public hearing. Several members of the public appeared and spoke at the remaining three (3) public hearings - Westampton, Howell Township and Westfield, NJ. The comments focused mainly on the adverse economic impact and financial hardships that any increase would have on the average New Jersey American Water Company ratepayer, particularly those on a fixed income.

Subsequent to the public hearings, the Parties to the proceeding engaged in settlement negotiations. As a result of these discussions and extensive discovery, the Signatory Parties reached a Stipulation on all issues. On April 2, 2012, Aqua, Middlesex and the MLTMUA all submitted letters neither opposing nor adopting the Stipulation among the Signatory Parties.

On April 3, 2012, ALJ McGee issued his Initial Decision in this matter recommending adoption of the Stipulation executed by the Parties, finding that the Parties had voluntarily agreed to the Stipulation and that the Stipulation fully disposes of all issues and is consistent with the law. Following the issuance of the Initial Decision, Board Staff has received over one hundred phone calls and/or emails highlighting previous NJAW rate increases and objecting to the economic impact any rate increase will have. They further assert that NJAW does not need a rate increase. None of the parties who provided these additional comments were intervenors in the proceeding. Notwithstanding these comments, no party to the case filed any exceptions to the Initial Decision.

DISCUSSION AND FINDINGS

Among the provisions of the Stipulation⁵, the Signatory Parties recommend that the Company's base rates should be increased by \$30,009,522 representing a 5.23% increase over Company revenues totaling \$573,969,770. The Signatory Parties further recommend a rate base of \$1.92 billion, with a test year ending January 31, 2012, adjusted for known and measurable changes, and that the Company be authorized a return on equity of 10.15%, a preferred stock cost rate of 4.7365% and a cost of debt rate of 5.7543%, for an overall rate of return of 8.0398%. The overall rate of return is calculated by using the Company's current capital structure consisting of 52.00% common equity, 0.03% preferred stock and 47.97% long-termed debt ratios.

⁵Although described in the Order at some length, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order.

The Signatory Parties also further recommend the following:

- o The expenses associated with incremental One Call markouts arising from the modifications to N.J.A.C. 14:2-1.1 et. seq. effective October 15, 2007, be deferred by the Company if such expenses arise;
- o The Company continues offering the Low Income Conservation Program that was approved under BPU Docket No. WR10040260;
- o The Company uses its best efforts to increase the rate of direct billing of American Water Service Company ("Service Company") expenses and submit to the Board, for approval, the agreement between the Company and the Service Company dated January 1, 1989, on or before May 1, 2013;
- o The rate increase set forth in this Stipulation reflects the updating of the Company's previously approved depreciation rates to adjust the 3-year average net salvage allowance component as stipulated to in Docket No. WR08010020. The updated depreciation rates for water property only, reflect the average of the actually experienced net salvage for the three year period ending December 31, 2010, the most recent calendar years (2008-2010) available at the time of filing.
- o Once the rates emanating from this proceeding have been made effective, the Company may not increase its base rates for two years from the effective date. Specifically excluded from this Stipulation provision are the Company's Purchased Wastewater Treatment Adjustment Clause ("PSTAC") and Purchased Water Adjustment Clause ("PWAC") rates, and Distribution System Improvement Charge ("DSIC") rates, should a DSIC be adopted by the Board.

Pursuant to the Stipulation, the water service customer revenue rate impacts are as follows:

Class Revenue Increases:

The parties stipulate that General Metered Service ("GMS") rates for a typical residential customer using 6,500 gallons per month for Service Area-1 ("SA-1") shall increase by \$2.15 per month; for SA-2, SA-3 Main, SA-1A Harrison, and Jensen's Deep Run by \$3.46 per month; for SA-2 Manville by \$3.67 per month; for SA-3 Southampton by \$3.44; for SA-3 Homestead by \$2.15; for SA-1B Pennsgrove by \$3.30; and for SA-1D by \$3.93. Rates of commodity-demand and off peak service customers shall increase 0.54% overall and by 0.59% overall, respectively. Rates for the OIW customers will increase 5.90% overall. Rates for the Manasquan customers shall increase approximately 3.6% overall. Rates for the Sales to Other Systems ("SOS") customers will increase 6.91% overall.

Private Fire Protection Service:

The overall revenue increase for Private Fire Protection Service is 2.64%. The rate increases will vary within the rate classification depending upon the rate schedules and the type of service contracted for.

Public Fire Protection Service:

The overall revenue increase for Public Fire Protection Service is 0.56%. The rate increases will vary within the rate classification depending upon the rate schedules and the type of service contracted for.

Customer Charges (Fixed Service Charges):

The monthly customer charges for all service areas except SA-1B and SA-1D will be set at \$10.60 per month (non-exempt) for a 5/8 inch meter. The customer charge for SA-1B and SA-1D will be set at \$9.00 per month (non-exempt) for a 5/8 inch meter. Meter capacity ratios are utilized to establish rates for larger size meters.

Pursuant to the Stipulation, the wastewater service customer revenue rate impacts are as follows:

Sewer Service Revenue Increases:

The Parties stipulate that sewer service revenues will increase for the Company's Ocean City Service Area on an across-the-board basis by 3.05%. The Parties stipulate that Pottersville rates for a typical residential customer using 6,000 gallons per month will increase \$26.03 per month or 16.38%, while a Pottersville-Flat Rate, residential customer will increase \$26.43 per month or 16.48%. Jensen's Deep Run wastewater service customers will be converted from a flat rate to a volumetric rate, with the average residential customer using 5,000 gallons per month to see an increase of \$2.36 per month or 4.50%.

Applied Community On-Site Wastewater Systems:

The average overall increase for Applied Community On-Site Wastewater Systems is 4.51%. The rate increases may and/or will vary within the rate classification depending upon the rate schedules, class and size of dwelling.

The parties stipulate that sewer service revenues will increase for the Company's Non-Residential General Metered Wastewater Service Customers applicable to the Applied System by 5.74% and for the Other Contract Wastewater Service Customers in the Applied System by 2.95%.

The Board is mindful of the impact any rate increase has on its customers. However, having reviewed the record in this matter, including ALJ McGee's Initial Decision and the Stipulation, and letters from the Non-Signatory Parties indicating that they do not oppose the Stipulation, the Board **FINDS** that the Signatory Parties have voluntarily agreed to the Stipulation, and that the Stipulation fully disposes of all issues in this proceeding and is consistent with the law. In reaching this decision, the Board must balance the needs of the ratepayer to receive safe, adequate and proper service at reasonable rates, while allowing the utility the opportunity to earn a fair rate of return. See FPC v. Hope Natural Gas, 320 U.S. 591 (1944); N.J.S.A. 48:2-21 and N.J.S.A. 48:3-1. Therefore, the Board **FINDS** the Initial Decision, which adopts the Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation, attached hereto, including all attachments and schedules, as its own, incorporating by reference the terms and conditions of the Stipulation, as if they were fully set forth at length herein, subject to the following:

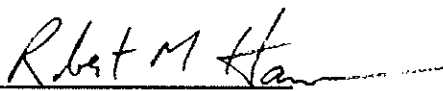
- a. On April 6, 2012, the Board Secretary received a letter from the Petitioner containing the proposed "Tariff for Water and Wastewater Service" consistent with the terms of the Stipulation. The Board HEREBY ACCEPTS the tariff as filed and makes it effective with this Order.
- b. The stipulated increase and the tariff design allocations for each customer classification are HEREBY ACCEPTED.


Based upon the forgoing, the Board HEREBY APPROVES an overall increase in revenues in the amount of \$30,009,522 representing a 5.23% increase over Company revenues totaling \$573,969,770.

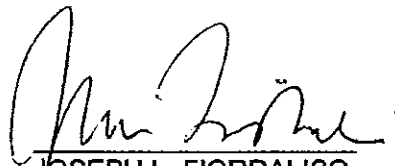
This Order shall be effective on May 1, 2012.

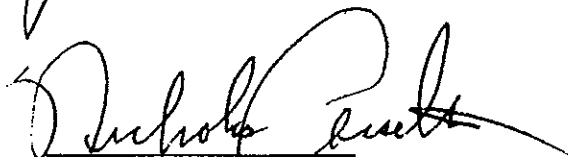
DATED: 5/1/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

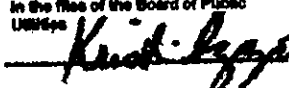

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

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 New Jersey American Water Company, Inc. For Approval of
Increased Tariff Rates and Charges for Water and Wastewater Service, Change in Depreciation
Rates and Other Tariff Modifications
BPU Docket No. WR11070460
OAL Docket No. PUC 09799-2011N

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BOARD OF PUBLIC UTILITIES
TREASURY



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

Rec'd 4/13/12

BPU MAILROOM

APR 5 2012

RECEIVING

INITIAL DECISION

SETTLEMENT

**IN THE MATTER OF THE PETITION OF
NEW JERSEY AMERICAN WATER
COMPANY, INC. FOR APPROVAL OF
INCREASED TARIFF RATES AND
CHARGES FOR WATER AND
WASTEWATER SERVICE, CHANGE IN
DEPRECIATION RATES AND OTHER
TARIFF MODIFICATIONS**

**OAL DOCKET NO. PUC 09799-11N
BPU DOCKET NO. WR11070460**

**Ira G. Magdal, Esq., Cozen O'Connor, and Suzana Duby, Esq., Corporate
Counsel, Counsel for Petitioner, New Jersey American Water Company,
Inc.**

**Debra F. Robinson, Esq., Deputy Rate Counsel, Susan E. McClure, Esq.,
Assistant Deputy Rate Counsel, and Christine Juarez, Esq., Assistant
Deputy Rate Counsel, for the New Jersey Division of Rate Counsel
(Stefanie A. Brand, Esq., Director)**

**Alex Moreau, Deputy Attorney General, Jennifer Hsia, Deputy Attorney General
and Carolyn McIntosh, Deputy Attorney General, for the Staff of the
New Jersey Board of Public Utilities (Jeffrey S. Chiesa, Attorney General
of New Jersey)**

OAL DKT. NO. PUC 03268-10

Stephen B. Genzer, Esq., Saul Ewing, LLP, Counsel for Intervenors, Aqua New Jersey, Inc. and Lawrenceville Water Company

Bradford M. Stern, Esq., Law Offices of Bradford M. Stern LLC, Counsel for Intervenors Cogen Technologies Linden Venture, L.P., ConocoPhillips Company, Johanna Foods, Inc., Princeton University, and Rutgers, the State University of New Jersey

Anthony R. Francioso, Esq., Fornaro Francioso, Counsel for Intervenor the Mount Laurel Township Municipal Utilities Authority **Walter G. Reinhard, Esq.**, Norris McLaughlin & Marcus, P.A., Counsel for Intervenor Manasquan Customer Group

Kenneth J. Quinn, Esq., Middlesex Water Company, Counsel for Intervenor Middlesex Water Company

OAL DKT. NO. PUC 03268-10

Record Closed: April 2, 2012

Decided: April 3, 2012

BEFORE LELAND S. McGEE, ALJ

On July 29, 2011, New Jersey American Water Company, ("Petitioner" or "Company") filed with the New Jersey Board of Public Utilities ("Board") a Petition requesting an increase in operating revenues of approximately \$95.5 million or a 15.5% increase in its rates.

On August 1, 2011, the Board transmitted the matter to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 through 15 and N.J.S.A. 52:14F-1 through 13. On September 4, 2011, a prehearing conference was held and a prehearing order was issued on October 26, 2011.

The parties to this matter are the Petitioner, the Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board ("Staff"). Motions to Intervene were filed and granted to: the Mount Laurel Township Municipal Utilities Authority, the Manasquan Customer Group; Rutgers, the State University of New Jersey; Princeton University; ConocoPhillips Company; Johanna Foods, Inc.; Cogen Technologies Linden Venture, L.P.; Middlesex Water Company; Aqua New Jersey, Inc.; and Lawrenceville Water Company by Orders dated September 6, 2011, November 16, 2011 and December 28, 2011.

Additionally, the Utility Workers Union of America ("UWUA"), Local 42 (the "Local") filed a Motion to Intervene in this proceeding. The Motion was opposed by NJAWC. By letter dated December 7, 2011, the Local requested that its Motion be modified to request permission for participant status only, which request was granted by Order dated December 16, 2011.

OAL DKT. NO. PUC 03268-10

Pursuant to statute, Petitioner published in newspapers of general circulation within its service territory a notice of the public hearings which were held in Ocean City, Westampton, Howell Township, and Westfield on December 6, 2011 and December 14, 2011.

As part of the case, the parties exchanged discovery consisting of over 1,000 discovery requests, attended numerous meetings and settlement conferences.

Evidentiary hearings were scheduled for April 2012. Prior to the commencement of such hearings, the parties entered into a Stipulation of Settlement which is appended to this Initial Decision.

I have reviewed the record and the terms of the settlement and I **FIND**:

1. The parties to the Stipulation have voluntarily agreed to a settlement evidenced by their signatures.
2. The Stipulation of Settlement has been executed by all parties of record, excluding some Interveners and Participants. The Interveners to this case that have not signed the Stipulation have submitted letters stating they do not object to the Stipulation.

ORDER

It is therefore, **ORDERED** that the parties comply with the terms of the settlement and this proceeding is now concluded.

I hereby **FILE** my Initial Decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

The 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

OAL DKT. NO. PUC 03268-10

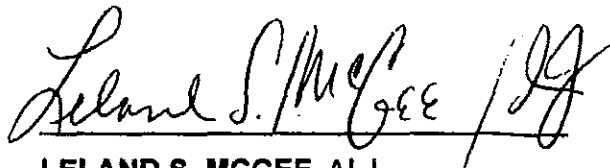
Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

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.

April 3, 2012

DATE



LELAND S. MCGEE, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

LSM/sej

Attachment

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

IN THE MATTER OF THE PETITION OF : BPU DOCKET NO. WR11070460
NEW JERSEY AMERICAN WATER : OAL DOCKET NO. PUC09799-11N
COMPANY, INC. FOR APPROVAL OF :
INCREASED TARIFF RATES AND : **STIPULATION OF SETTLEMENT**
CHARGES FOR WATER AND :
WASTEWATER SERVICE, CHANGE IN :
DEPRECIATION RATES AND OTHER :
TARIFF MODIFICATIONS :

APPEARANCES:

Ira G. Megdal, Esq., Cozen O'Connor, and Suzana Doby, Esq., Corporate Counsel, Counsel for Petitioner, New Jersey American Water Company, Inc.;

Debra F. Robinson, Esq., Deputy Rate Counsel, Susan E. McClure, Esq., Assistant Deputy Rate Counsel, and Christine Juarez, Esq., Assistant Deputy Rate Counsel, for the New Jersey Division of Rate Counsel (**Stefanie A. Brand, Esq., Director**);

Alex Moreau, Deputy Attorney General, Jennifer Hsia, Deputy Attorney General and Carolyn McIntosh, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (**Jeffrey S. Chiesa, Attorney General of New Jersey**);

Stephen B. Genzer, Esq., Saul Ewing, LLP, Counsel for Intervenors, Aqua New Jersey, Inc. and Lawrenceville Water Company;

Bradford M. Stern, Esq., Law Offices of Bradford M. Stern LLC, Counsel for Intervenors Cogen Technologies Linden Venture, L.P., ConocoPhillips Company, Johanna Foods, Inc., Princeton University, and Rutgers, the State University of New Jersey;

Anthony R. Francioso, Esq., Fornaro Francioso, Counsel for Intervenor the Mount Laurel Township Municipal Utilities Authority

Walter G. Reinhard, Esq., Norris McLaughlin & Marcus, P.A., Counsel for Intervenor Manasquan Customer Group; and

Kenneth J. Quinn, Esq., Middlesex Water Company, Counsel for Intervenor Middlesex Water Company

TO: THE HONORABLE LELAND S. McGEE, ALJ

BACKGROUND

On July 29, 2011, New Jersey American Water Company ("NJAWC", "Petitioner", or "Company") filed with the New Jersey Board of Public Utilities ("Board") a Petition, Testimony and Exhibits (the "Petition") requesting an increase in operating revenues of approximately \$95.5 million or approximately 15.5% over projected test year operating revenues.

In the Petition, NJAWC proposed a test-year ending January 31, 2012. The Petition as originally filed was based upon five (5) months of actual and seven (7) months of estimated data. As the case progressed, the estimated data were replaced by actual data, and on November 11, 2011, the Company filed its update consisting of nine months of actual data. The Company filed an additional update consisting of twelve months of actual data on February 15, 2012.

On August 1, 2011, this proceeding was transmitted by the Board to the Office of Administrative Law ("OAL") as a contested case. The matter was assigned to Administrative Law Judge Leland S. McGee. On September 4, 2011, a prehearing conference was conducted by Judge McGee and on October 26, 2011, Judge McGee issued a prehearing order establishing procedures and hearing dates for the conduct of this case.

The signatory parties to this case include Petitioner, the Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board ("Staff"). Motions to intervene filed by the following parties were unopposed: the Mount Laurel Township Municipal Utilities Authority ("MTLMUA") (filed September 19, 2011); the Manasquan Customer Group ("MCG") (filed September 30, 2011); Rutgers, the State University of New Jersey (filed October 3, 2011), Princeton University (filed September 28, 2011), ConocoPhillips Company (filed September 16, 2011); Johanna Foods, Inc. (filed September 23, 2011), and Cogen Technologies Linden Venture, L.P. (filed September 16, 2011) (collectively, the Optional Industrial Wholesale Customer Coalition or "OIW"); Middlesex Water Company ("Middlesex") (filed August 5,

2011); Aqua New Jersey, Inc. ("Aqua") and Lawrenceville Water Company ("Lawrenceville") (filed September 1, 2011). These motions were granted by orders dated September 6, 2011 (as to Middlesex), November 16, 2011 (as to OIW, Aqua and Lawrenceville), November 21, 2011 (as to MCG) and December 28, 2011 (as to MTLMUA). On November 18, 2011, the Utility Workers Union of America ("UWUA"), Local 423 (the "Local") filed a Motion to Intervene in this proceeding. The motion was opposed by NJAWC. By letter dated December 7, 2011, the Local requested that its Motion be modified to request permission for participant status only, which request was granted by Order dated December 16, 2011.

Pursuant to appropriate notice in newspapers of general circulation within the Company's service territory, and the serving of notice upon affected municipalities and counties within the Company's service area, four public hearings were held. Two public hearings were held on Tuesday, December 6, 2011 at 2:00 PM in Ocean City, New Jersey and at 7:00 PM in Westampton, New Jersey; and two public hearings were held on Wednesday December 14, 2011 at 2:00 PM in Howell Township, New Jersey and at 7:00 PM in Westfield, New Jersey. Members of the public spoke at the public hearings, and the comments generally involved opposition to rate increases.

Discovery involving over 1,000 requests, many with multiple parts, was answered by the Company.

The Company filed initial direct and supplemental direct testimony on July 29, 2011, and November 11, 2011, respectively. Rate Counsel, Middlesex Water Company and OIW filed direct testimony on January 13, 2012. The Company filed its rebuttal testimony on February 23, 2012.

Evidentiary hearings were scheduled for March and April 2012. Prior to the commencement of such hearings, the parties conducted meetings to discuss settlement, and as a

result, this Stipulation of Settlement was agreed upon by the parties. As a result of those settlement conferences, the undersigned parties **AGREE AND STIPULATE AS FOLLOWS:**

REVENUE REQUIREMENTS

1. The parties agree to recommend to the Board that Petitioner's revenues from base rates should be increased by \$30.010 million, effective for service rendered on and after May 1, 2012, or as soon thereafter as the Board deems appropriate.

2. The parties stipulate that the 12-month period ending January 31, 2012, as adjusted for known and measurable changes, shall be the test year in this case.

3. The parties stipulate that pro forma present rate revenues are \$573.970 million. As a result, rates emanating from this proceeding will be designed to yield total base rate revenues of \$603.980 million. Present rate revenues including PWAC/PSTAC are \$621.979 million.¹ The rate increase is 4.82% based upon total present rate revenues (including PWAC/PSTAC). See Schedule A.

4. The parties stipulate that the Company's rate base for use in this proceeding is set at \$1.92 billion.

5. The parties to this Stipulation agree that the revenue increase set forth earlier in this Stipulation of Settlement reflects an adjustment to rate base due to the filing of a consolidated federal income tax return.

¹ Total PWAC/PSTAC revenues are \$48.009 million per BPU Order in Docket No. WR11030131.

6. Rate of Return. The parties agree to the following rate of return for use in this case:

	<u>Ratios</u>	<u>Cost Rates</u>	<u>Weighted Cost Rates</u>
1. Long-Term Debt	47.97%	5.7543%	2.7603%
2. Preferred Stock	0.03%	4.7365%	0.0014%
3. Common Equity	52.00%	10.1500%	5.2780%
4. Total	<u>100.00%</u>		<u>8.0398%</u>

7. Amortizations. The parties agree that the rate increase set forth earlier in this Stipulation reflects an amortization of unamortized balance sheet accounts, in accordance with the following schedule:

<u>Account</u>	<u>Balance at 1/31/2012</u>	<u>Monthly Amortization</u>	<u>Amortization Start/ Revised Date</u>	<u>Amortization Ending Date</u>
Deferred Pension Expense	\$5,711,570.30	\$39,390.14	3/1/2004	2/28/2024
FAS 106 (SA-1) (Revised Amount)	\$618,170.40	19,317.83	5/1/2012	4/30/2014 (a)
FAS 106 (SA-2/SA-3) (Revised Amount)	\$228,479.35	6,923.62	5/1/2012	4/30/2014 (a)
FAS 109 (SA-1)	\$11,241,931.00	\$48,878.00	Various	3/31/2031
FAS 109 (SA-2)	\$7,278,034.96	\$38,105.00	Various	12/31/2027
FAS 109 (SA-3)	\$45,409.00	\$346.00	Various	12/31/2022
FAS 112	\$170,907.50	\$2,084.25	12/1/2008	11/30/2018
Gain on Land Sales (Revised Amount)	(194,459.69)	(\$7,255.60)	5/1/2012	4/30/2014 (a)
Acquisition Adjustments	\$4,453,473.21	20,893.68	Various	Various
South Jersey Services	\$4,352,661.30	\$9,847.65	12/1/2008	11/30/2048
Mt Ephraim	\$54,357.16	\$122.98	12/1/2008	11/30/2048
Pelican Island	\$6,846.58	\$15.49	12/1/2008	11/30/2048
Sick Bank Amortization - 2008	\$1,518,643.28	\$18,520.04	12/1/2008	11/30/2018
Sick Bank Amortization - 2010	\$203,864.96	\$1,905.28	1/1/2011	12/31/2020
BPU Management Audit (Revised Amount)	\$926,719.21	\$18,074.31	5/1/2012	4/30/2016 (b)
Concentric Study - 2010 Rate Case (Revised Amount)	\$179,718.60	\$3,823.80	1/1/2011	12/31/2015
Concentric Study - 2011 Rate Case	\$108,000.00	\$2,250.00	5/1/2012	4/30/2016
Pre 1971 Investment Credit	(\$493,626.93)	(\$2,987.52)	Various	Various
Regulatory Liability/Asset for Excess/Deficit Deferred Income Taxes	(\$3,466,090.00)	(\$13,321.00)	Various	Various
MTBB	(\$6,859,658.49)	(\$14,688.78)	1/1/2011	12/31/2050
Pottersville Operating Deferral	\$147,850.25	3,145.75	1/1/2011	12/31/2015
Residuals Amortization	1,733,021.29	43,504.37	5/1/2012	6/30/2015 (c)
Refund of COR	(\$44,200,000.00)	(\$100,000.00)	12/1/2008	11/30/2048

Notes:

- (a) Monthly amortization derived from Apr, 2012 balance divided into 24 months/2 years
 (b) Monthly amortization derived from Apr, 2012 balance divided into 48 months/4 years
 (c) Monthly amortization derived from Apr, 2012 balance divided into 36 months

8. Normalization of Regulatory Commission Expense. The parties stipulate that the Company incurred rate case expenses for this proceeding. Said rate case expense will be shared 50/50 between the Company and ratepayers, and normalized over two years.

9. One Call Markout Expenses. It is agreed that the expenses associated with the incremental One Call markouts arising from the modifications to *N.J.A.C. 14:2-1.1 et seq.* effective October 15, 2007 may be deferred by NJAWC if such expenses arise. The Company may recover same with interest at the rate shown in the Federal Reserve statistical release closest to January 1 of each year for seven (7) year constant maturity treasuries plus sixty (60) basis points. The interest rate shall remain in effect for a one-year period. At such time as the Company seeks recovery of these expenses, any party may challenge the prudence of the level of such costs.

10. Low Income Conservation Program. The Company agrees to continue offering the Low Income Conservation Program that was approved under BPU Docket No. WR10040260. The Company will not at this time implement any other aspect of the conservation program proposed in its Petition, nor at this time will the Company implement the associated Conservation Plan Tracker or Water Efficiency Tracker. The Company will also continue to offer its other existing H2O Help To Others Programs, the LIPP Assistance and LIPP Discount programs.

11. Service Company. The Company will use best efforts to increase the rate of direct billing of American Water Service Company ("Service Company") expenses. The Company agrees to submit to the BPU for approval the Agreement between the Company and Service Company dated January 1, 1989 on or before May 1, 2013.

12. Depreciation Expense. The parties agree that the rate increase set forth in this Stipulation reflects the updating of the Company's previously approved depreciation rates to adjust the 3-year average net salvage allowance component as stipulated to in Docket No. WR08010020. The updated depreciation rates for water property only, reflect the average of the actually experienced net salvage for the three year period ending December 31, 2010, the most recent calendar years (2008 - 2010) available at the time of filing. The newly adjusted depreciation rates for water, and the previously approved and unadjusted sewer depreciation rates are attached as Schedule B to this Stipulation.

13. Next Rates Effective Date. Once the rates emanating from this proceeding have been made effective, Petitioner may not increase its base rates for two years from the effective date. Specifically excluded from this Stipulation provision are Petitioner's Purchased Wastewater Treatment Adjustment Clause ("PSTAC") and Purchased Water Adjustment Clause ("PWAC") rates, and Distribution System Improvement Charge ("DSIC") rates, should a DSIC be adopted by the Board.

TARIFF AND RATE DESIGN

14. Class Revenue Increases. The parties stipulate that GMS rates for a typical residential customer using 6,500 gallons per month for Service Area-1 ("SA-1") shall increase by \$2.15 per month; for SA-2, SA-3 Main, SA-1A Harrison, and Jensen's Deep Run by \$3.46 per month; for SA-2 Manville by \$3.67 per month; for SA-3 Southampton by \$3.44; for SA-3 Homestead by \$2.15; for SA-1B Pennsgrove by \$3.30; and for SA-1D by \$3.93. Rates of commodity-demand and off peak service customers shall increase 0.54% overall and by 0.59% overall, respectively. Rates of the OIW customers will increase 5.90% overall. Rates of the

Manasquan customers shall increase approximately 3.6% overall. Rates of the SOS customers will increase 6.91% overall. For private fire protection service, rates will increase for each group overall as follows: for SA-1, 4.5%; for SA-1B, 2.98%; for SA-1 Rate Schedule L-2, 4.05%; for SA-2, 0.7%; for SA-3, 4.8%; and for SA-1D Hydrants 15.0%, while the connection charges have been established equivalent to SA-1 (Rate Schedule L-1) rates. For SA-1A, private fire protection service rates will decrease 8.95%. For public fire protection service, rates will increase overall as follows: for SA-1, 1.0%; for SA-1A, 1.0%; for SA-1B, 1.0%; for SA-2, 0.09%; for SA-3, 1.0%; and for SA-1D 0.98%.

15. Customer Charges (Fixed Service Charges). The monthly customer charges for all service areas except SA-1B and SA-1D will increase from \$10.00 to \$10.60 per month (non-exempt) for a 3/4 inch meter. The customer charge for SA-1B will increase from \$7.75 to \$9.00 per month (non-exempt) and SA-1D will remain at \$9.00 for a 3/4 inch meter. Meter capacity ratios are utilized to establish rates for larger size meters.

16. Sewer Service Revenue Increases. The Parties stipulate that sewer service revenues will increase for the Company's Ocean City Service Area on an across-the-board basis by 3.05%. The parties stipulate that Pottersville rates for a typical residential customer using 6,000 gallons of water per month will increase \$26.03 per month or 16.38%, while a Pottersville-Flat Rate, residential customer will increase \$26.43 per month or 16.48%, Jensen's Deep Run wastewater service customers will be converted from a flat rate to a volumetric rate, with the average residential customer using 5,000 gallons per month to see an increase of \$2.36 per month or 4.50%.

17. Applied Community On-Site Wastewater Systems. Sewer service customers in the APPLIED COMMUNITY ON-SITE WASTEWATER SYSTEMS ("Applied COWS"), formerly

served by Applied Wastewater Management, Inc. ("Applied System") for residential customers, are either: 1) customers who are currently water service customers of NJAWC and will be converted to a combination of usage (volumetric rate) and Fixed Service Charges; or 2) customers who are not water service customers of NJAWC will continue to be billed under the current flat rate system. Residential wastewater service customers being billed under the flat rate system will see the following monthly increases:

		CURRENT FLAT RATE PER MONTH	PROPOSED FLAT RATE PER MONTH	PERCENTAGE CHANGE
CLASS A	4 BEDROOM AGE RESTRICTED 3 BEDROOM AGE RESTRICTED 2 BEDROOM TOWNHOUSE 3 BEDROOM TOWNHOUSE AGE RESTRICTED	\$94.80	\$97.00	2.32%
	2 BEDROOM AGE RESTRICTED	92.04	94.18	2.33%
	1 BEDROOM TOWNHOUSE	90.38	92.48	2.32%
CLASS B	DETACHED SINGLE FAMILY 3 BEDROOM TOWNHOUSE	119.88	122.66	2.32%

Residential wastewater service customers converting to a combination of the Fixed Service Charge and a Sewer Usage Charge shall pay the following monthly Fixed Service Charge:

		CURRENT FLAT RATE PER MONTH	PROPOSED FIXED SERVICE CHARGE PER MONTH
CLASS A	4 BEDROOM AGE RESTRICTED 3 BEDROOM AGE RESTRICTED 2 BEDROOM TOWNHOUSE 3 BEDROOM TOWNHOUSE AGE RESTRICTED	\$94.80	\$60.44
	2 BEDROOM AGE RESTRICTED	92.04	
	1 BEDROOM TOWNHOUSE	90.38	

CLASS B	DETACHED SINGLE FAMILY 3 BEDROOM TOWNHOUSE	119.88	77.96
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In addition to the above Fixed Service Charge, the Sewer Usage Charge for these General Metered Residential Wastewater Service Customers is at the non-exempt rate of \$9.3000 per thousand gallons and the volume of wastewater use is assumed to equal water meter registration. The average Applied COWS metered residential Class-A Customer Consuming 4,000 gallons of water per month would pay \$97.64 per month under proposed rates with increases ranging from \$2.84 to \$7.26. The average APPLIED COWS residential metered Class-B Customer consuming 6,000 gallons of water per month would pay \$133.76 per month under proposed rates, an increase of \$13.88.

The parties stipulate that the sewer service revenues in the Applied HOMESTEAD wastewater system, formerly served by Applied Wastewater Management, Inc. ("Applied System") are as follows for residential customers; the customers who are currently water service customers of NJAWC will be converted to a combination of usage (volumetric rate) and Fixed Service Charges. These general metered residential wastewater service customers shall pay the following Fixed Service Charge and Sewer Usage Charge which will replace the current flat rate charge per month as follows:

	CURRENT FLAT RATE PER MONTH	PROPOSED FIXED SERVICE CHARGE PER MONTH
2 BEDROOM AGE RESTRICTED DETACHED SINGLE FAMILY	\$79.17	\$48.35

In addition to the above Fixed Service Charge the parties stipulate that the Sewer Usage Charge for these General Metered Residential Wastewater Service Customers is at the non-exempt rate of \$9.3000 per thousand gallons and that the volume of wastewater use is assumed to equal water meter registration. The average APPLIED HOMESTEAD residential metered customer consuming 4,000 Gallons of water per month would pay \$85.55 per month under proposed rates.

The parties stipulate that sewer service revenues will increase for the Company's Non-Residential General Metered Wastewater Service Customers applicable to the Applied System by 5.74% and for the Other Contract Wastewater Service Customers in the Applied System by 2.95%.

18. Trend in SA-1/SA-2 Residential and Commercial Consumption Decline. The parties acknowledge that the rate relief set out in this stipulation recognizes the near-term change in the Petitioner's revenue caused by a continuing, declining trend in base consumption per customer.

19. Service of Board Order. The Parties agree to accept as service delivery by courier ("hand delivery") of the BPU Order approving this Stipulation, in whole or in part (the "Order"). The Parties agree that such method of hand delivery shall be sufficient service of the Order. The Signatory Parties further acknowledge that any increase or resolution of any issue agreed to in this Stipulation shall become effective upon service of the Board Order on all parties of record unless a later date is indicated in the Order.

20. The undersigned parties hereby agree that this Settlement has been made exclusively for the purpose of this proceeding and that this Settlement, in total or by specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of the Settlement.

21. The undersigned parties agree that this Settlement contains a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and

approved in its entirety. In any event any particular aspect of this Settlement is not accepted and approved in its entirety by the Board, or modified by the Board, each party that is adversely affected by the modification can either accept the modification or declare this Settlement to be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.

22. It is the intent of the undersigned parties that the provisions hereof be approved by the Board as being in the public interest. The undersigned parties further agree that they consider the Settlement to be binding on them for all purposes herein.

23. It is specifically understood and agreed that this Settlement represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the undersigned 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 and, in total or by specific item. The undersigned parties further agree that this Settlement is in no way binding upon them in any other proceeding, except to enforce the terms of this Settlement.

24. 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.

25. **WHEREFORE**, the undersigned parties respectfully submit this Settlement to the Presiding Administrative Law Judge and Board of Public Utilities and request (1) the Presiding Administrative Law Judge issue an Initial Decision approving this Stipulation of Settlement in its entirety in accordance with the terms contained herein, and (2) the Board approve this Stipulation of Settlement in its entirety in accordance with the terms contained herein.

**NEW JERSEY AMERICAN WATER
COMPANY, INC.**

By: _____
Ira G. Megdal, Esq.

**STEFANIE A. BRAND, ESQ., DIRECTOR,
DIVISION OF RATE COUNSEL**

By: _____
Stefanie A. Brand, Esq.
Director, Division of Rate Counsel

**JEFFREY S. CHIESA, ATTORNEY
GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of Public
Utilities**

By: _____
Jennifer Hsia, DAG

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By: _____
Bradford M. Stern, Esq.

Manasquan Customer Group

By: _____
Walter G. Reinhard, Esq.

**NEW JERSEY AMERICAN WATER
COMPANY, INC.**

By: Ira G. Megdal
Ira G. Megdal, Esq.

**STEFANIE A. BRAND, ESQ., DIRECTOR,
DIVISION OF RATE COUNSEL**

By: Stefanie A. Brand
Stefanie A. Brand, Esq.
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Attorney for the Staff of the Board of Public
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By:  _____
Jennifer Hsia, DAG

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By: _____
Walter G. Reinhard, Esq.

**NEW JERSEY AMERICAN WATER
COMPANY, INC.**

By: _____
Ira G. Megdal, Esq.

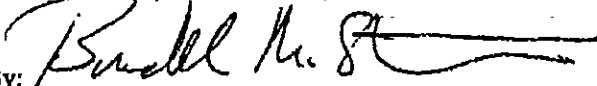
**STEFANIE A. BRAND, ESQ., DIRECTOR,
DIVISION OF RATE COUNSEL**

By: _____
Stefanie A. Brand, Esq.
Director, Division of Rate Counsel

**JEFFREY S. CHIESA, ATTORNEY
GENERAL OF NEW JERSEY**
Attorney for the Staff of the Board of Public
Utilities

By: _____
Jennifer Hsia, DAG

**Cogen Technologies Linden Venture, L.P.,
ConocoPhillips Company, Johanna Foods,
Inc., Princeton University, and Rutgers, the
State University of New Jersey**

By: 
Bradford M. Stern, Esq.

Manasquan Customer Group

By: _____
Walter G. Reinhard, Esq.

**NEW JERSEY AMERICAN WATER
COMPANY, INC.**

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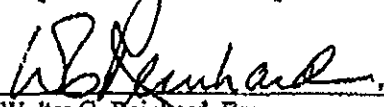
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By: 
Walter G. Reinhard, Esq.

Schedule A
Page 1 of 1New Jersey American Water Company
Calculation of Revenue Deficiency

	<u>Per Stipulation</u>
Rate Base	\$1,920,300,000
Rate of Return	<u>8.0398%</u>
Operating Income Requirement	154,388,279
Pro Forma Operating Income	<u>137,684,121</u>
Income Deficiency	16,704,159
Revenue Conversion Factor	<u>1.796530</u>
Revenue Deficiency	<u><u>\$30,009,522</u></u>

New Jersey-American Water Company
 Depreciation Rates - All Water Service Areas

SCHEDULE B
 Page 1 of 2

NARUC Account No.	Description	Total Deprec Rate
Source of Supply		
311.00	SS Structures & Improvements	3.14%
312.00	Collecting & Impounding Res.	0.91%
313.00	Lakes, River & Other Intakes	2.30%
314.00	Wells & Springs	3.09%
315.00	Infiltration Galleries and Tunnels	2.73%
316.00	Supply Mains	1.60%
317.00	Other Water Source Plant	2.82%
Pumping Plant		
321.00	Pumping Structures & Improvements	3.12%
323.00	Power Generation Equipment	2.60%
322.00	Boiler Plant Equipment	0.50%
323.00	Other Power Production Equip	74.27%
325.00	Electric Pumping Eq.	2.66%
326.00	Diesel Pumping Eq.	2.81%
327.00	Hydraulic Pumping Equipment	0.82%
328.00	Other Pumping Eq.	5.75%
Water Treatment Plant		
331.00	WT Structures & Improvements	2.89%
332.10	Treatment Plant Equipment	3.52%
332.20	Chemical Equipment	0.24%
Transmission & Distribution Plant		
341.00	TD Structures & Improvements	4.47%
342.00	Dist. Reservoirs & Standpipes	2.14%
343.00	Mains	0.92%
343.10	Mains-All Material Types - 4 in & Under	2.23%
343.20	Mains-All Material Types - 6 in - 8 in	1.38%
343.30	Mains-All Material Types - 10 in - 18 in	0.85%
343.40	Mains - All Material Types 18" & Over	0.89%

NARUC Account No.	Description	Total Deprec Rate
Transmission & Distribution Plant		
344.00	Fire Mains	1.60%
346.00	Services	2.10%
348.00	Meters	12.34%
347.00	Meter Installations	2.27%
348.00	Hydants	2.89%
349.00	Other Trans. & Dist. Equip.	30.31%
380.00	Other P/E - CPS	29.00%
General Plant		
360.00	Adm & Gen Structures & Improvements	3.52%
390.10	Office Structures & Improvements	4.14%
390.20	Stores, Shop & Garage Structures	1.80%
390.30	Misc. Structures & Improvements	3.20%
391.00	Office Furniture & Equipment	2.73%
391.20	Personal Computer Eq.	7.87%
391.21	Mainframe Computer Equipment	-1.13%
391.30	Computer Software	8.26%
391.40	Data Handling Equipment	7.89%
391.50	Other Office Equipment	7.41%
392.00	Transportation Equipment	0.00%
392.10	Trans. Equip. - Light Trucks	13.29%
392.20	Trans. Equip. - Heavy Trucks	4.12%
392.30	Trans. Equip. - Cars	7.16%
392.40	Trans. Equip. - Other	8.01%
393.00	Stores Equipment	4.01%
394.00	Tools, Shop & Garage Equipment	3.21%
395.00	Laboratory Equipment	4.41%
396.00	Power Operated Equipment	4.92%
397.00	Communication Equipment	11.70%
398.00	Miscellaneous Equipment	4.05%
399.00	Other Tangible Plant	8.88%

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New Jersey-American Water Company
 Depreciation Rates - All Sewer Service Areas

SCHEDULE B
 Page 2 of 2

NARUC Account No.	Description	Total Deprec Rates
320.00	Service Sewer	2.50%
321.00	Collecting Mains	2.01%
322.00	Collecting Mains - Other	1.86%
323.00	Collection Sewers Forced	2.28%
324.00	Collection Structures & Improvements	3.26%
325.00	Receiving Wells	5.42%
329.00	Structures & Improvements - SPP	3.26%
331.00	Pump Equipment Electric	6.61%
332.00	Other Pumping Equipment	5.90%
340.00	Structures & Improvements	3.26%
348.00	Outfall Sewer Lines	5.42%
361.00	Plant Sewers	5.42%
369.00	Other Plant Equipment	5.42%
361.00	Office Furniture & Equipment	6.97%
362.00	Transportation Equipment	16.12%
364.00	Tools, Shop & Garage Equipment	11.12%
366.00	Power Operated Equipment	5.88%
396.00	Other Depreciable Property	6.27%
399.10	Other PE - CPS	20.00%



Via Facsimile & Regular Mail
(973) 648-2358

April 2, 2012

Honorable Leland S. McGee, A.L.J.
State of New Jersey
Office of Administrative Law
33 Washington Street
Newark, New Jersey 07102

**RE: I/M/O the Petition of New Jersey American Water Company, Inc, for Approval of Increased Tariff Rates and Charges for Water and Wastewater Service; Change in Depreciation Rates and Other Tariffs Modifications
BPU Docket No. WR11070460
OAL Docket No. PUC09799-1IN**

Dear Judge McGee:

Please be advised that Intervenor, Middlesex Water Company, has reviewed the terms of the proposed final Stipulation of Settlement in the above case provided to us today. Although Middlesex Water Company will not be a signatory to the Stipulation of Settlement, it has no objection to the same.

Respectfully,

A handwritten signature in black ink, appearing to read 'Kenneth J. Quinn', is written over a faint, larger version of the same signature.

Kenneth J. Quinn
Vice President, General Counsel,
Secretary & Treasurer

KJQ:rk

cc: Service List Attached (via email)

"A Provider of Water, Wastewater & Related Products and Services"
Middlesex Water Company. NASDAQ: MSEX 1600 Ronson Road, Iselin, NJ 08830-3020 www.middlesexwater.com
(732) 634-1500 Tel. (732) 638-7515 Fax



FORNARO FRANCIOSO LLC
COUNSELLORS AT LAW

GOLDEN CREST CORPORATE CENTER
2277 STATE HIGHWAY 33, SUITE 408 • HAMILTON, NEW JERSEY 08690
TELEPHONE: 609-584-6104 • TELEFAX: 609-584-2709

RICHARD D. FORNARO*
ANTHONY R. FRANCIOSO*

Of Counsel
KATHLEEN A. FRANCIOSO*

*MEMBER OF THE NEW JERSEY & PENNSYLVANIA BARS

April 2, 2012

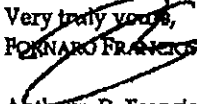
The Honorable Leland S. McGee
Administrative Law Judge
Office of the Administrative Law
33 Washington Street
Newark, New Jersey 07102

RE: *IM/O* The Petition of New Jersey American Water Company, Inc., for Approval of Increased
Tariff Rates and Charges for Water and Wastewater Service, Change In Depreciation Rates and
Other Tariff Provisions
BPU Docket No. WRI1070460
OAL Docket No. 09799-11

Dear Judge McGee:

FORNARO FRANCIOSO LLC represents the Mount Laurel Township Municipal Utility Authority in
the above captioned matter. With respect to the settlement being submitted to Your Honor for approval,
may this letter serve as notice that the Mount Laurel Township Municipal Utility Authority will not be a
signatory to the Stipulation, however does not oppose same.

Thank you for Your Honor's acceptance of the foregoing.

Very truly yours,

FORNARO FRANCIOSO LLC
Anthony R. Francioso, Esq.

ARF/id

c: Service List (Via Electronic Mail)
Pam Carolan, Executive Director, MTLMUA



Stephen B. Genzer
Phone: (973) 286-6712
Fax: (973) 286-6812
sgenzer@saul.com
www.saul.com

April 2, 2012

The Honorable Leland S. McGee
Administrative Law Judge
Office of the Administrative Law
33 Washington Street
Newark, NJ 07102

Re: In the Matter of the Petition of New Jersey American Water Company, Inc.
for Approval of Increased Tariff Rates and Charges For Water And Wastewater
Service; Change in Depreciation Rates and Other Tariff Modifications
BPU Docket No. WR11070460
OAL Docket No. PUC 9799-11

Dear Judge McGee:

Please be advised that this firm represents Aqua New Jersey, Inc. and the Lawrenceville Water Company, Intervenor in the above-referenced matter. With respect to the stipulation of several of the parties being submitted to Your Honor for approval, please consider this letter as a formal indication that Aqua New Jersey, Inc. and the Lawrenceville Water Company do not oppose the stipulation.

Thank you for Your Honor's acceptance of the foregoing.

Very truly yours,

Stephen B. Genzer

SBG/gd
cc: Service List (Via Electronic Mail)

One Riverfront Plaza, Suite 1520 • Newark, NJ 07102-5426 • Phone: (973) 286-6700 • Fax: (973) 286-6800
Stephen B. Genzer - Newark Managing Partner

DELAWARE MARYLAND MASSACHUSETTS NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC
A DELAWARE LIMITED LIABILITY PARTNERSHIP

