



Agenda Date: 1/31/24  
Agenda Item: 5A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

WATER

IN THE MATTER OF THE PETITION OF NEW )  
JERSEY-AMERICAN WATER COMPANY, INC. FOR ) ORDER GRANTING MOTION TO  
AUTHORIZATION TO CHANGE THE LEVEL OF ITS ) INTERVENE  
PURCHASED WATER ADJUSTMENT CLAUSE )  
AND PURCHASED WASTEWATER TREATMENT )  
ADJUSTMENT CLAUSE ) DOCKET NO. WR23110791

Parties of Record:

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**Christopher M. Arfaa, Esq., Director, Corporate Counsel**, New Jersey-American Water Company, Inc.  
**Jay L. Kooper, Esq., Vice President, General Counsel & Secretary**, Middlesex Water Company

BY THE BOARD:<sup>1</sup>

On November 9, 2023, pursuant to N.J.S.A. 48:2-21, N.J.A.C. 14:9-7.1 *et seq.*, and other relevant statutes and regulations, New Jersey-American Water Company, Inc. (“NJAWC” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board”) requesting approval to modify its Purchased Water Adjustment Clause (“PWAC”) and Purchased Wastewater Treatment Adjustment Clause (“PSTAC”) rates (“Petition”).

**BACKGROUND/PROCEDURAL HISTORY**

NJAWC provides services to approximately 662,000 water and fire service customers, along with about 53,200 sewer service customers. Currently, NJAWC consistently sources water supply service from six (6) providers and wastewater treatment services from three (3) providers. Each entity adjusts its service rates and, in the case of wastewater treatment service providers, issues wastewater deficit/credit adjustments at various times throughout the year.

The six (6) water sources with which NJAWC collaborates to purchase water are: 1) Passaic Valley Water Commission; 2) Morris County Municipal Utilities Authority; 3) Montclair Water Bureau; 4) New Jersey Water Supply Authority; 5) City of Newark; and 6) Borough of Florham Park. Additionally, the three (3) wastewater treatment providers from which the Company purchases treatment services are: 1) Cape May County Municipal Utilities Authority for the

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<sup>1</sup> Commissioner Bange recused himself from this matter.

Company's "Ocean City Sewer" tariff group; 2) Ocean County Utilities Authority for the Company's "Lakewood Sewer" tariff group; and 3) Howell Township for the Company's "Adelphia Sewer" tariff group.

By the Petition, NJAWC noted that the proposed PWAC and PSTAC rates are based on increased costs of procuring water and wastewater treatment services and all associated costs for purchased water and wastewater treatment are recovered through the PWAC and PSTAC rider tariff(s). Additionally, the Company does not include any PWAC or PSTAC pass-through charges in its base rate cases.

### **MOTION TO INTERVENE**

On November 20, 2023, the Middlesex Water Company ("Middlesex") filed a Motion to intervene in this matter. Middlesex noted that it procures water through a contractual agreement with NJAWC via its "Elizabethtown System." The charges for purchased water are outlined in NJAWC's Rate Schedule G, "Sales for Resale – Service to Other Systems," and Rate Schedule O-1, "PWAC." Middlesex noted that, according to the existing contract, Middlesex is obligated to purchase a minimum of three (3) million gallons of water per day from NJAWC which, utilizing Rate Schedules G and O-1, results in a minimum annual cost of approximately \$3.5 million. As a contract customer uniquely affected by NJAWC's request for a change in water service rates, Middlesex argued that it has the right to intervene in this proceeding.

On December 19, 2023, NJAWC filed a letter of non-objection with the Board stating that it does not oppose Middlesex's intervention in this matter.

### **DISCUSSION AND FINDINGS**

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant" if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, file a statement or brief, file exceptions, or all of these as determined by the trier of fact.

Application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenors' interest be specific, direct, and different from those of the other parties so as to add measurably and constructively to the scope of the case.<sup>2</sup>

After consideration of the papers and given the lack of any objections, the Board **HEREBY FINDS**, pursuant to N.J.A.C. 1:1-16.3, that, due to its unique position as a large volume purchaser of water from NJAWC that will see direct changes in its purchased water costs if the Petition is approved, Middlesex will be directly and uniquely affected by the outcome of this proceeding and will add measurably and constructively to the case without causing undue delay or confusion. The Board **FURTHER FINDS** that Middlesex has met the standards for intervention in this proceeding. Accordingly, having received no objections, the Board **HEREBY GRANTS** Middlesex's Motion to Intervene.

This Order is effective January 31, 2024.

DATED: January 31, 2024

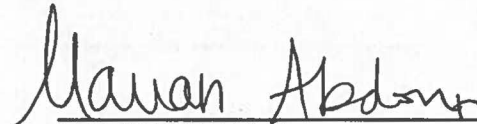
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BY:



CHRISTINE GUHL-SADOVY  
PRESIDENT



DR. ZENON CHRISTODOULOU  
COMMISSIONER



MARIAN ABDOU  
COMMISSIONER

ATTEST:



SHERRI L. GOLDEN  
SECRETARY

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

<sup>2</sup> In re Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control of Public Service Electric and Gas Company and Related Authorizations, BPU Docket No. EM05020106, Order dated June 8, 2005.

IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. FOR  
AUTHORIZATION TO CHANGE THE LEVEL OF ITS PURCHASED WATER ADJUSTMENT CLAUSE AND  
PURCHASED WASTEWATER TREATMENT ADJUSTMENT CLAUSE

BPU DOCKET NO. WR23110791

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