



Agenda Date: 8/18/11

Agenda Item: 5B

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 ROXITICUS)
WATER COMPANY FOR AN INCREASE IN RATES)
AND FOR AUTHORIZATION TO EXTEND THE TERM)
OF AN EXISTING LOAN)
)
) BPU DOCKET NO. WR11020051
) OAL DOCKET NO. PUC2762-2011

Parties of Record:

Douglas R. Kleinfeld, Esq., Kleinfeld and Kleinfeld on behalf of Roxiticus Water Company.
Stefanie A. Brand, Director, Division of Rate Counsel

BY THE BOARD:

On February 11, 2011, Roxiticus Water Company ("Company" or "Petitioner") a public utility of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities ("Board") filed a petition with the Board pursuant to N.J.S.A. 48:2-21, N.J.A.C. 14:1-5.12 and N.J.S.A. 48:3-9 seeking to increase and revise its rates and charges for water service amounting to \$27,956 or 19.25% above present revenues. In addition the Company filed to extend the term of a loan and to establish the required base data for a Purchased Water Adjustment clause ("PWAC"). By letter dated July 14, 2011, the Petitioner amended its petition and requested Board approval for the loan extension, as within time, pursuant to N.J.S.A. 48:3-9. On March 9, 2011, the Board issued a Suspension Order suspending increases, changes or alterations in rates for service until July 15, 2011. On July 14, 2011, the Board issued an Order Further Suspending the proposed rates until November 15, 2011, unless the Board acts prior to that date.

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 ("Rate Counsel") and Board Staff ("Staff") (collectively the "Parties") agreeing to an overall increase in revenues in the amount of \$20,000 or 13.16% over present revenues.

BACKGROUND/PROCEDURAL HISTORY

Petitioner is a water utility that provides water service to approximately 104 customers in a portion of the Township of Mendham, Morris County, New Jersey. Petitioner purchases all of its water from the New Jersey American Water Company.

This matter was transmitted to the Office of Administrative Law ("OAL") on March 2, 2011, as a contested case, and was assigned to Administrative Law Judge ("ALJ") Walter Braswell. A pre-hearing conference was held on April 13, 2011, and a pre-hearing Order was issued on April 29, 2011.

After proper notice, a public hearing was held in this matter on June 22, 2011, at 7:00 pm at the Mendham Township Town Hall in Brookside, NJ. A number of customers appeared at the hearing and placed comments on the record about the increase in rates.

Subsequent to the public hearing, the Parties engaged in settlement negotiations. There were no interveners in this matter. As a result of these discussions and extensive discovery, the Parties reached a settlement on all issues and entered into the Stipulation. ALJ Braswell issued his initial decision in this matter on July 25, 2011, 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. No exceptions were filed with the Board.

DISCUSSION AND FINDINGS

As more fully set forth in the attached Stipulation¹, the Parties agreed to the following:

1. The Company's total rate base for purposes of this proceeding is \$193,603 and that a fair overall rate of return is 9.124%, which reflects a cost rate for common equity of 10.30%.
2. Petitioner's required operating income is \$17,664 and its total revenue is \$171,988. Petitioner's present revenues are \$151,988 which, when subtracted from the total revenue requirement, necessitates a revenue increase of \$20,000 or 13.16% over present revenues.
3. The Parties further agreed that the Petitioner's Base cost of Purchased Water is \$79,202.00 which is based on the Petitioner paying the following rates to its supplier New Jersey American Water company: \$4.8747 (consumption charge) plus \$0.3487 PWAC and a monthly charge of \$689.92. The total volume of Purchased Water used in establishing Petitioner's base cost is set at 13,578 gallons.
4. Petitioner submitted a true-up schedule in this matter, as required by the Board's Order dated July 31, 2009 in Docket No. WR09020156, to comply with N.J.A.C. 14:9-7.4, and re-set its Purchased Water Adjustment Clause to zero.

¹ Although described in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control subject to the findings and conclusions of this Order.

5. The Parties further agreed to extend the outstanding \$93,000 loan, as within time, payable to David Jackson ("Jackson") maturing December 31, 2010 and bearing interest at the rate of 8.50%. The loan was approved by the Board by Order dated August 30, 2001 in Docket No. WF01030195. By Order dated May 17, 2006 in Docket No. WM05080755, the Board approved an extension of the loan to December 31, 2010. Petitioner has requested Board authorization to extend the loan, as within time, for three additional years to December 31, 2013, at an interest rate of 7.5%. As reflected in the Petition, Petitioner and Jackson have agreed to the loan extension and interest rate reduction on July 15, 2010.

DISCUSSION AND FINDINGS

As a result of the Stipulation, the average bill for a single family residential customer with a 3/4-inch meter utilizing 32,000 gallons per quarter will increase from the current rate of \$363.92 to \$411.81 per quarter or \$47.89 per quarter.

The Office of the Economist has reviewed the Company's request to extend the loan. By Order dated August 30, 2001, in Docket No. WF01030195, the Board approved Roxiticus request to issue a five-year promissory note maturing on December 31, 2005 in the amount of up to \$116,265 to its stockholder, David Jackson. Interest at a rate of eight and one-half (8.5%) percent was payable quarterly and was limited to the amount of Roxiticus's positive utility operating income with any interest earned above that amount waived.³ By Order dated May 17, 2006 in Docket No. WM05080755, Joint Petitioner's sought and received Board approval to renew and extend, for five (5) years, the terms and conditions of the promissory note between Roxiticus and David Jackson. Petitioner has requested Board authorization to extend the loan, as within time, for three additional years to December 31, 2013, at an interest rate of 7.5%. As reflected in the Petition, Petitioner and Jackson have agreed to the loan extension and interest rate reduction.

In light of Roxiticus' small size, earnings history, and prevailing economic conditions, the Board **HEREBY FINDS** that the terms of the existing loan which Petitioner seek to renew are reasonable and a renewal and extension of the Existing Loan is appropriate and in accordance with law.

Having reviewed the record in this proceeding, including ALJ Braswell's Initial Decision and the Stipulation among the Parties, the Board **FINDS** that the 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. The Board **FINDS** the Stipulation to be reasonable and in the public interest. The Board **HEREBY ADOPTS** the ALJ's Initial Decision and the Stipulation, 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:

²This was an interest payable only loan with the principle amount of \$116,265 to be paid at the end of the loan period.

1. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement does not constitute an automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.

The Board HEREBY DIRECTS the Company to submit a complete revised tariff conforming to the terms and conditions of the Stipulation and this Order within ten (10) days for the effective date of this Order.

It appears that Petitioner entered into a loan extension in July of 2011, over six months prior to seeking Board approval. Petitioner's failure to seek timely Board approval of its Loan extension, prior to the former loans December 31, 2010 expiration, is not acceptable. The Board DIRECTS that, in the future, Petitioner shall fully comply with all applicable statutes and Board rules and to seek timely Board approval prior to the issuance of any stock, bond or demand note that remains unpaid for a period of more than 12 months after the date thereof, including any modifications and extensions as required by N.J.S.A. 48:3-9. Any further violations of Board rules by Petitioner will not be tolerated and will be dealt with by the Board to the full extent permitted by law.


The effective date of this Order is August 28, 2011.

DATED: 8/18/11

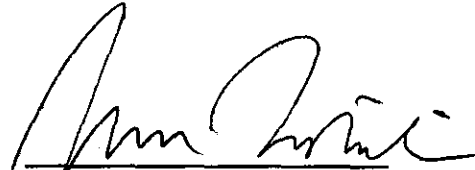
BOARD OF PUBLIC UTILITIES
BY:




LEE A. SOLOMON
PRESIDENT



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



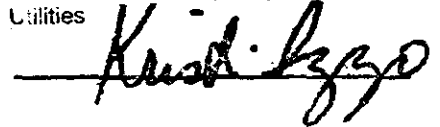
NICHOLAS ASSELTA
COMMISSIONER

ATTEST:



CARMEN DIAZ
ACTING SECRETARY

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



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AN INCREASE IN RATES AND CHARGES FOR WATER SERVICE AND FOR
AUTHORIZATION TO EXTEND THE TERM OF AN EXISTING LOAN
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