



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

WATER

IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017)	DECISION AND ORDER ADOPTING STIPULATION OF SETTLEMENT
)	
)	BPU DOCKET NO. AX18010001
)	
IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017 – FILING ON BEHALF OF SUEZ WATER NEW JERSEY, INC. SUEZ WATER TOMS RIVER, INC. AND SUEZ WATER ARLINGTON HILLS, INC.)	BPU DOCKET NOS .WR18030238, WR18030239 & WR18030240
)	

Parties of Record:

Stephen B. Genzer, Esq. and Colleen A. Foley, Esq., Saul Ewing Arnstein & Lehr, LLP, on behalf of Joint Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 ("2017 Tax Cut Act") was signed into law with an effective date of January 1, 2018. The 2017 Tax Cut Act sets forth changes to the Federal Internal Revenue Tax Code ("Tax Code"). One significant change is the reduction in the maximum corporate tax rate from 35% to 21% which took effect January 1, 2018.

On January 31, 2018, the New Jersey Board of Public Utilities ("Board") issued the Generic Tax Order¹ in BPU Docket No. AX18010001, captioned In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017, concerning the effects of the corporate tax rate charge from 35% to 21% and other adjustments as set forth in the 2017 Tax Cut Act. Based on the Board's review of the 2017 Tax Cut Act, the changes to the Tax Code will provide savings to New Jersey public utilities and result in an over-collection of tax revenue by the public utilities that will not be paid in federal income taxes. Id. at 2. The Board stated, "To ensure that ratepayers receive the appropriate benefit from the reduction in taxes collected in rates that will no longer be paid, it is necessary for rates to be adjusted so that utility rates reflect the effective federal corporate tax rate." Id.

¹ See, In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017, BPU Dkt No. AX10010001 (Jan. 31, 2018) ("Generic Tax Order").

JOINT PETITIONERS' FILING

On March 5, 2018, pursuant to the Generic Tax Order, SUEZ Water New Jersey, Inc., SUEZ Water Toms River, Inc. and SUEZ Water Arlington Hills, Inc. (collectively, "Joint Petitioners" or "Companies")² filed a joint petition requesting Board approval to implement a reduction in base rates effective April 1, 2018, of \$12.1 million for SUEZ Water New Jersey, Inc., \$1.6 million for SUEZ Water Toms River, Inc. and \$0.2 million for SUEZ Water Arlington Hills, Inc.

On March 26, 2018, the Board issued an Order ("March 2018 Order") approving the implementation of the Joint Petitioners' proposed rate reduction on an interim basis, effective April 1, 2018. The proposed refund and other rider tariffs were deferred until a later date.

STIPULATION OF SETTLEMENT

Following a review of discovery and subsequent discussions, the Companies, the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff (collectively "Signatory Parties") executed a stipulation of settlement ("Stipulation"),³ which provides for the following:

The amounts of the regulatory liability resulting from the change in income tax rate are set forth in Exhibit A attached to the Stipulation and shall be amortized appropriately as determined in the Companies' base rate case filing in Docket WR18050593. Such amortizations shall be reflected in base rates as determined in that case.

Refund to Customers

The Joint Petitioners shall refund the calculated January 1, 2018 through March 31, 2018 over-collection of income taxes, including interest accrued at the Companies' short-term debt rate, of approximately \$1.6 million for SUEZ Water New Jersey, Inc., \$0.2 million for SUEZ Water Toms River, Inc., and \$6.4 thousand for SUEZ Water Arlington Hills, Inc. The Companies will apply a one-time sur-credit refund to customer accounts billed effective for a complete monthly cycle of bills within 60 days of the effective date of the Board Order on a bills rendered basis. The calculations of the sur-credits are included in Attachment A.

The SUEZ Water NJ shall file a report with the Signatory Parties and the Board detailing the refund required by this Stipulation within 30 days of the completion of its issuance.

² By Order dated November 19, 2018 in In the Matter of the Merger of SUEZ Water New Jersey, Inc. SUEZ Water Toms River, Inc. SUEZ Water Arlington Hills, Inc. SUEZ Water West Milford, Inc. SUEZ Water Princeton Meadows, Inc. and SUEZ Water Matchaponix Inc., BPU Docket No. WM18030266, the Board approved the merger of SUEZ Water New Jersey, SUEZ Water Toms River and SUEZ Arlington Hills, amongst other entities, into SUEZ Water New Jersey, Inc.

³ Although summarized in this Order, the detailed terms of the Stipulation are controlling, subject to the findings and conclusions in this Order.

EXCESS DEFERRED INCOME TAX ("EDIT")

Protected Balances

The Companies' "Protected" regulatory liability balance as of December 31, 2017 is estimated to be approximately \$66,427,305 for SUEZ Water New Jersey Inc., \$9,293,712 for SUEZ Water Toms River, Inc. and \$712,278 for SUEZ Water Arlington Hills, Inc. The Signatory Parties agree and recommend that the Board find that the "Protected" Excess Deferred Income Tax balance is properly reclassified as a Regulatory Liability on the Respondent's books. This reclassification has no effect on rate base for purposes of this filing and any changes should be appropriately reflected in future rate cases.

This regulatory liability is subject to the Internal Revenue Service normalization rules and will be amortized and returned to ratepayers over a period determined utilizing the Average Rate Assumption Method ("ARAM"). The Companies anticipate the ARAM calculation will be completed by March 31, 2019. The estimated amortization period will be approximately 45 years.

The existing docket in this matter shall remain open until the Companies submit a filing to begin amortizing the protected excess deferred income tax balance over the amortization period determined by the ARAM calculation. Since that calculation should be completed by March 31, 2019, the filing should occur promptly after that calculation is completed. That filing will also address the final balance of the Companies "unprotected" EDIT ("Excess Deferred Income Tax"), including whether the approximately \$8.5 million for SUEZ Water New Jersey, Inc., \$0.9 million for SUEZ Water Toms River, Inc. and \$1.0 thousand for SUEZ Water Arlington Hills, Inc., certain Cost of Removal related EDIT should be categorized as unprotected.

Unprotected Balances

The Companies' "Unprotected" EDIT balances as of December 31, 2018 are approximately \$14,482,481 for SUEZ Water New Jersey, Inc., \$1,293,098 for SUEZ Water Toms River, Inc., and \$0 for SUEZ Water Arlington Hills, Inc. This balance has been properly reclassified as a regulatory liability on the Joint Petitioners' respective books. This regulatory liability will be amortized and returned to customers over a five year period as reflected in the Companies' base rate case filing in Docket WR18050593.

The Signatory Parties agree that any change in the amounts described above, including rates and refunds, will be addressed in the Companies' next base rate case after the currently filed base rate case in Docket No. WR18050593.⁴

⁴ By Order dated November 18, 2018, the Board adopted the Initial Decision of Administrative Law Judge Jacob Gertsman recommending the Board adopt a Stipulation that revolved all issues emanating from Joint Petitioners' current base rate case. See In the matter of the Joint Petition for Approval of an Increase in Rate for Water and Wastewater Service and Other Tariff Changes for SUEZ Water New Jersey, Inc., SUEZ Water Toms River, Inc., SUEZ Water Arlington Hills, Inc. SUEZ Water West Milford, Inc. SUEZ Water Princeton Meadows, Inc. and SUEZ Water Matchaponix, Inc., BPU Docket No. WR18050592 and OAL Docket No. PUC 07969-18 (November 18, 2018).

DISCUSSION AND FINDINGS

Staff and Rate Counsel have reviewed the joint petition, exchanged discovery and reached a resolution on all issues in this matter. The Companies will apply a one-time sur-credit refund to customer accounts billed effective for a complete monthly cycle of bills within 60 days of the effective date of this Order on a bills rendered basis. The Stipulation further addresses the other effects of the Tax Act on the Companies' rate base, including protected and unprotected deferred income taxes. Finally, the Stipulation appropriately provides that additional review of any related refunds and rates may occur, as necessary, in the Companies' next base rate case.

The Board has reviewed the record in this proceeding, including the petition and the Stipulation. The Board **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board **HEREBY ADOPTS** the Stipulation in its entirety, and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein.

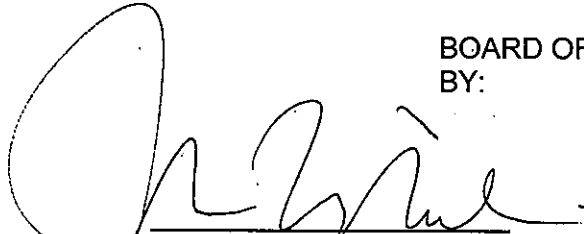
The Companies are **HEREBY DIRECTED** to file a report with the Signatory Parties and the Board detailing the refund required by the Stipulation within 30 days of the completion of the issuance of the refund.

The Companies' costs remain subject to audit by the Board. This Decision and Order shall not preclude or prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

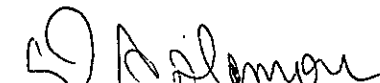
This Order shall be effective on March 9, 2019.


DATED: 2/27/19

BOARD OF PUBLIC UTILITIES
BY:



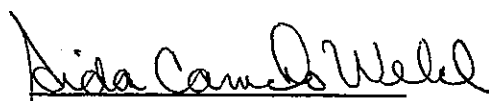
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MARYANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

UPENDRA J. CHIVUKULA
COMMISSIONER

ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

**Docket No. AX18010001 – In the Matter of the New Jersey Board of Public Utilities’
Consideration of the Tax Cuts and Jobs Act of 2017; and**

**Docket Nos. WR18030238, WR18030239 and WR18030240 – In the Matter of the New
Jersey Board of Public Utilities’ Consideration of the Tax Cuts and Jobs Act of 2017 –
Filing on Behalf of SUEZ Water New Jersey, Inc. SUEZ Water Toms River, Inc. and SUEZ
Water Arlington Hills, Inc.**

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