

## 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/

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IN THE MATTER OF THE PETITION OF AQUA NEW JERSEY INC. FOR APPROVAL TO DEFER CERTAIN COSTS RELATED TO THE REPLACEMENT OF LEAD SERVICE LINES AND OTHER RELATED APPROVALS	) ) )	ORDER DESIGNATING COMMISSIONER, SETTING MANNER OF SERVICE AND BAR DATE
	)	DOCKET NO. WR22120745

#### Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel Colleen A Foley, Esq., Saul Ewing, Arnstein, & Lehr, LLP on behalf of Aqua New Jersey, Inc.

BY THE BOARD:

### **BACKGROUND**

Aqua New Jersey Inc. ("Petitioner", "Aqua", or "Company") is engaged in the business of treating and distributing water for retail service to approximately 55,000 customers. The Company's customers are located in several municipalities in Warren, Hunterdon, Mercer, Morris, Burlington, Monmouth, Camden, Atlantic, Ocean, Sussex and Gloucester Counties of New Jersey. The Company also provides water service to 25 separate public water systems.

On July 22, 2021, Governor Phil Murphy signed <u>L.</u> 2021, <u>c.</u> 183 ("LSLR Law") into law. The LSLR Law found as follows:

[T]he presence of lead in drinking water represents a threat to the public health, especially the health and development of New Jersey's children; that pipes containing lead that connect water mains to homes and other buildings, often called lead service lines, are a primary source of lead in drinking water; and that, due in part to the age of New Jersey's housing, there does not exist a full and complete inventory of all lead service lines in the State.

The Legislature therefore declares that public water systems should fully inventory all service lines and gradually replace all lead service lines, portions of which may exist on private property; and that, given the risk to public health and the resulting social costs that lead exposure imposes upon society as a whole, it is in the public

interest that each public water system be obligated to replace lead service lines, including those that exist on private property, and be authorized to recoup the costs of lead service line replacements from all subscribers of the public water system.

[N.J.S.A. 58:12-40.]

The LSRL Law also requires that "[i]n order to recoup the costs of lead service line replacements from its customers . . . an investor-owned public community water system shall submit to the board, for approval at its next general rate case proceeding, a petition that includes a proposal for cost recoupment." N.J.S.A. 58:12A-45(b).

On December 23, 2022, Aqua filed a petition that, which among other things, requested the Board to authorize it to defer the costs to replace non-Company side Lead Service Lines ("LSLs") as a regulatory asset pending the Board's decision regarding the same in the Company's next rate case filing ("Petition"). The Company also stated that it would identify those costs it intends to recover through its Distribution System Improvement Charge ("DSIC") foundational filing, which the Board approved at its December 21, 2022 public agenda meeting. The Petitioner stated that this will enable it to meet its mandated 10% replacement schedule and to replace non-company side LSLs guicker. Agua further stated that this also will ensure compliance with the legal requirements for cost recovery regarding the replacements of non-company-side of the LSLs. Specifically, Aqua is requesting to defer the total cost of (a) the replacements customer/property owner-side LSLs notifications (N.J.S.A. 58:12A-45) and (b) including interest [N.J.S.A. 58:12A-45(2)]. The Petitioner stated that it intends to recover the following in its DSIC: (a) the costs of Company-owned LSLs replacements since inception (b) total costs of customer notifications (N.J.S.A. 58.12A-43) (c) the costs of inventorying premises which require excavation [N.J.S.A. 58:12:A-42f.(2)] in the event all normal methods of determining the composition of a service line have been exhausted and (d) other incremental costs have been exhausted. Agua further proposed that the costs associated with the replacement of the portions of an LSL that are customer-owned be treated as an operation and maintenance cost to be recovered from the Company's customers, pursuant to the LSL legislation, as part of the rate case process.

# **DISCUSSIONS AND FINDINGS**

In order to effectuate an expeditious decision in this matter, the Board has determined that the petition should be retained by the Board for hearing. Accordingly, pursuant to N.J.S.A. 48:2-32, the Board <u>HEREBY DESIGNATES</u> Dr. Zenon Christodoulou the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board <u>HEREBY DIRECTS</u> that any entity seeking to file a motion for admission of counsel, pro hac vice or to file a motion to intervene or to participate in this matter file the appropriate application with the Board on or before March 31, 2023.

In addition, all parties are <u>HEREBY DIRECTED</u> to serve all documents electronically. The Board **HEREBY DIRECTS** Staff to post this Order to the Board's website.

The effective date of this Order is March 13, 2023.

DATED: March 6, 2023

**BOARD OF PUBLIC UTILITIES** 

BY:

COMMISSIONER

COMMISSIONER

DR. ZENON CHRISTODOULOU

JOSEPH L. FIORDALISO

PRESIDENT

MARY ANNA HOLDEN COMMISSIONER

ROBERT M. GORDON COMMISSIONER

ATTEST:

CARMEN D. 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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### **DOCKET NO. WR22120745**

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