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August 18, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket No. R-2011-2230259
Pa. P.U.C. v. Newtown Artesian Water Company

Docket No. P-2010-2216324
Petition of Newtown Artesian Water Company

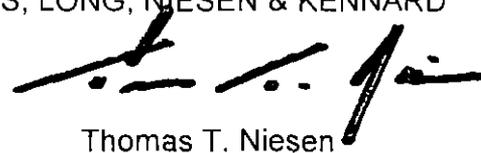
Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of a Joint Petition for Settlement of the above referenced consolidated rate investigation and petition proceedings signed by The Newtown Artesian Water Company, the Bureau of Investigations and Enforcement and the Office of Consumer Advocate. Copies of the Joint Petition for Settlement are being served upon the persons and in the manner set forth on the certificate of service attached to it. Please contact the undersigned if you have any questions concerning this matter.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By



Thomas T. Niesen

Encl.

cc: Certificate of Service (w/encl.)
Brenden E. Brett, Esq. (w/encl.)

110818-Chiavetta (Settlement).wpd

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2011-2230259
Office of Consumer Advocate	:	C-2011-2230952
	:	
v.	:	
	:	
The Newtown Artesian Water Company	:	
	:	
Petition of The Newtown Artesian Water Company	:	P-2010-2213642
	:	

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**JOINT PETITION FOR SETTLEMENT
OF RATE INVESTIGATION AND PETITION PROCEEDINGS**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

This Joint Petition for Settlement is made and entered into by, between and among the Bureau of Investigations and Enforcement¹ (“BI&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”) and The Newtown Artesian Water Company (“NAWC”), parties to the above captioned consolidated rate investigation and petition proceedings (hereinafter collectively referred to as “Joint Petitioners”), and is hereby submitted for consideration and recommended approval by the Administrative Law Judge for the purpose of settling the proceedings under the terms and conditions set forth below.

Background

1. NAWC is a Pennsylvania public utility that provides water service to the public in Newtown Borough and the Townships of Newtown and Middletown, Bucks County, Pennsylvania.

¹ Pursuant to the Commission’s Final Procedural Order at Docket No. M-2008-2071852, entered August 11, 2001, the prosecutory functions of the former Office of Trial Staff are now performed by the newly created Bureau of Investigations & Enforcement.

The Rate Proceeding at R-2011-2230259

2. On March 10, 2011, NAWC filed its Supplement No. 82 to Tariff Water-Pa. P.U.C. No. 9 ("Supplement No. 82") to become effective May 9, 2011. Supplement No. 82 contained proposed changes in rates calculated to produce an annual increase in revenue of \$999,839 with \$649,933 of the increase becoming effective on May 9, 2011 and \$349,906 of the increase becoming effective January 1, 2012 based on a future test year ending December 31, 2011 with purchased water costs projected through January 1, 2012.

3. Included for ratemaking recovery in the rate filing were increased purchased water costs from the Bucks County Water and Sewer Authority ("BCWSA") that were placed into effect by BCWSA on January 1, 2011 and projected by BCWSA beginning January 1, 2012.

4. Prior to the filing of Supplement No. 82, NAWC, on November 16, 2010, filed Supplement No. 80 to Tariff Water-Pa. P.U.C. No. 9 implementing partial recovery of the January 1, 2011 purchased water cost increase through a Purchased Water Adjustment Clause of \$0.1909 per 1,000 gallons effective January 1, 2011. The Company also filed Petitions docketed to P-2010-2211420 and P-2010-2216324 further addressing purchased water costs. These Petitions are discussed further below.

5. By Order entered May 5, 2011, at Docket No. R-2011-2230259, the Commission suspended Supplement No. 82 and instituted an investigation into the reasonableness of the proposed rates. NAWC filed Supplement No. 85 to suspend the application of the proposed water rates until December 9, 2011.

6. A Formal Complaint against Supplement No. 82 was filed on March 15, 2011 by the OCA and docketed to C-2011-2230952. A Notice of Appearance was filed by BI&E on March 22, 2011.

7. The case was assigned to Administrative Law Judge Elizabeth H. Barnes.

The Petition Proceeding at P-2010-2213642

8. As mentioned above, prior to the submission of the rate filing to the Commission, the Company, on December 20, 2010, filed a Petition which was docketed to P-2010-2216342.

9. The Petition sought to defer and record unrecovered purchased water costs that NAWC would incur as a result of the January 1, 2011 increase in purchased water charges implemented by BCWSA.

10. Answers in opposition to the Petition were filed by the BI&E and the OCA.

The Consolidated Rate and Petition Proceedings

11. By Order dated April 4, 2011, Judge Barnes consolidated the rate proceeding at R-2011-2230259 and the Petition proceeding at P-2010-2216342 at the request of the Company and with the agreement of the OCA and BI&E.

12. A Prehearing Conference in the consolidated proceeding was held on May 23, 2011. Counsel for BI&E, OCA and NAWC attended the prehearing conference.

The Petition Proceeding at P-2010-2211420

13. As mentioned above, the Company, on November 19, 2010, also filed a Petition which was docketed to P-2010-2211420. In this Petition, NAWC sought permission to increase its PWAC from \$0.1909 per 1,000 gallons to \$0.4389 per 1,000 gallons to further address the BCWSA increase to purchased water costs that had become effective January 1, 2010.

14. The Commission granted the Petition in an Order entered June 21, 2011 at P-2010-2211420 and allowed NAWC to increase its PWAC to \$0.4389 per 1,000 gallons and increase the PWAC "cap" from 3% to 7.5% of revenue.

15. On June 21, 2011, NAWC filed Supplement No. 86 to Tariff Water-Pa. P.U.C. No. 9 ("Supplement No. 86"). Supplement No. 86 increased the PWAC to \$.4389 per 1,000 gallons and the PWAC "cap" from 3% to 7.5% of revenue.

Terms and Conditions of Settlement

16. Joint Petitioners agree that this consolidated rate and petition proceeding can be settled without the need for further formal litigation. The terms and conditions comprising this Joint Petition, to which Joint Petitioners agree, are as follows:

(a) Revenue Increase

Joint Petitioners respectfully request that the Commission act as soon as possible to approve this Joint Petition and grant NAWC special permission to file a tariff supplement in the form attached hereto as Appendix A, to become effective for service on one day's notice, following the entry of a Commission Order approving this Settlement. The tariff supplement moves the \$344,923 in annual revenue presently being collected through the currently effective PWAC of \$.4389 per 1,000 gallons into base rates and is designed to produce an additional increase in annual base rate revenue of \$350,000 in lieu of the originally proposed, two step increase totaling \$999,839. A proof of revenue is attached hereto as Appendix B.

(b) Amortized Deferred Expense Claims

As part of the consideration of this revenue settlement, the Petition at P-2010-2213642 to defer uncollected purchased water expense is resolved.

Also, in consideration of the Settlement increase, NAWC agrees that the amortized deferred expense claims made in this proceeding, including the claim for uncollected purchased water cost, will not be claimed in any future rate proceeding. The claims and amounts are as follows:

- i. Unrecovered Purchased Water Costs, \$179,531, 2-yr. amortization, or \$89,766 annually (Revised claim - \$91,755, or \$45,878 annually)
- ii. Abandoned Well – St. Clare (Monastery), \$120,523, 10-yr. amortization, or \$12,052 annually
- iii. Abandoned Well – Holy Family, \$120,066, 10-yr. amortization, or \$12,007 annually
- iv. Abandoned Well – H/M (Middletown), \$7,062, 10-yr. amortization, or \$696 annually
- v. Abandoned Well – Wiggins, \$46,647, 10-yr. amortization, or \$4,656 annually
- vi. Abandoned Well – Well #7 (Linton Hill), \$290,474, 10-yr. amortization, or \$29,051 annually
- vii. Service Territory Application Proceedings – (Toll-Hibbs, Toll-Gray), \$216,145, 10-yr. amortization, or \$21,614 annually

(c) Purchased Water Costs

i. Current Purchased Water Rate

Purchased water cost from BCWSA reflected in the settlement rates are \$3.44 per 1,000 gallons (Consumption) plus \$0.01 per 1,000 gallons (monthly customer charge). Baseline water data for PWAC purposes will be determined based on \$3.44 per 1,000 gallons (Consumption) plus \$0.01 per 1,000 gallons (monthly customer charge) for all purchased water.

ii. Purchased Water Rate Projected

The Company withdraws its request in this case for a second step base rate increase effective January 1, 2012 based on projected purchased water costs. Subject to the terms of this Settlement, this withdrawal is without prejudice generally to any purchased water cost filing that the Company may present at any time concerning future purchased water costs that may occur either prior to January 1, 2012, effective January 1, 2012 or after January 1, 2012 and without prejudice specifically to any purchased water cost filing that the Company might make in regard to increases in purchased water costs that BCWSA has presented to NAWC, which are under discussion and may be retroactive to May 1, 2011.

(d) Purchased Water Adjustment Clause

NAWC withdraws its request to uncap the PWAC. Joint Petitioners agree that the cap of 7.5% is appropriately included in the PWAC tariff clause. OCA and BI&E withdraw any opposition to the 7.5% in this case and agree that they will not further challenge the 7.5% cap or appeal the Commission Order entered June 21, 2011 at P-2010-2211420.

(e) Stay Out

NAWC will not file a general rate increase, as that term is defined in Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d), prior to twelve (12) months after the entry date of the Commission's Order approving this Joint Petition for Settlement; provided, however, that the foregoing "Stay Out" has no application to filings to recover increased purchased water costs for which there is no "Stay Out."

(f) Other Matters

- i. The Company agrees to shop for electricity and will inform the Parties of the results of its shopping efforts within 90 days of Commission Settlement approval.
- ii. The Company will develop a program to purchase chemicals on an annual bulk basis and will provide an overview of the purchasing program to the Parties within 90 days of Commission Settlement approval.
- iii. The Company will review well management software programs which might maximize yields from wells by pumping at the most energy efficient rate and will report the results to the Parties within 90 days of Commission Settlement approval.

Other Provisions

17. Under the presently suspended Supplement No. 82, the quarterly cost of water service to a typical residential customer using 15,000 gallons per quarter would have increased by approximately \$21.43, or 24.6%, from \$87.26 to \$102.08 on May 9, 2011 and from \$102.08 to

\$108.69 per quarter on January 1, 2012 in the Newtown Rate Area and by approximately \$13.86, or 13.6%, from \$102.03 to \$109.28 per quarter on May 9, 2011 and from \$109.28 to \$115.89 per quarter on January 1, 2012 in the Indian Rock Rate Area. With the filing of Supplement No. 86 on June 21, 2011 at P-2010-2211420 increasing the PWAC to \$0.4389 per 1,000, the quarterly cost of water service to a typical residential customer using 15,000 gallons per quarter is \$90.98 per quarter in the Newtown Rate Area and \$105.75 per quarter in the Indian Rock Rate Area. Under the Joint Petition, the quarterly cost of water service to a typical residential customer using 15,000 gallons per quarter will increase from their present levels by \$9.31, or 10.2%, from \$90.98 to \$100.29 per quarter in the Newtown Rate Area and by \$1.74 or 1.6%, from \$105.75 to \$107.49 per quarter in the Indian Rock Rate Area.

18. Although Joint Petitioners are not in agreement with respect to each claim in the ratemaking process and may not agree upon the specific rate adjustments that may support their respective conclusions, their agreement as to the amount of increase in NAWC's annual water revenue, coupled with the other provisions hereto, provides an appropriate basis for resolution of the instant rate litigation.

19. The Joint Petition is in the public interest because it (a) minimizes cost-prohibitive litigation and administrative burden; (b) recognizes ratepayers' concerns; and (c) provides NAWC with additional and necessary cash flow. The statements of NAWC, BI&E and OCA supporting the *Joint Petition* are attached as Appendices C, D and E. Additionally and in further support of the *Joint Petition*, Joint Petitioners submitted their respective statements of previously distributed written testimony and exhibits, as set forth below, into the evidentiary record at the hearing convened by Judge Barnes on July 21, 2011:

Testimony and Exhibits Admitted Into the Evidentiary Record

<u>Party</u>	<u>Witness</u>	<u>Statements</u>	<u>Appendices/Exhibits/ Schedules</u>
NAWC	Paul R. Herbert	NAWC St. No. 1 NAWC St. No. 1-SD NAWC St. No. 1-R	Exhibits 1-A through 1-E Exhibit 1-F Exhibits 1-R and 1-R-1 NAWC Exhibit 1 Supplement No. 82
NAWC	Harold Walker, III	NAWC St. No. 2	
NAWC	George Forsyth	NAWC St. No. 3 NAWC St. No. 3-R	
NAWC	Harold Walker, III	NAWC St. No. 4 NAWC St. No. 4-R	Exhibit HW-1 Exhibit HW-1R
NAWC	R. Scott Hughes, P.E.	NAWC St. No. 5-R	Attachment RSH-1
BI&E	Amanda Gordon	OTS St. No. 1 OTS St. No. 1-SR	OTS Exhibit No. 1, Schedules 1 through 12
BI&E	Debra Backer	OTS St. No. 2 OTS St. No. 2-SR	OTS Exhibit No. 2, Schedules 1 through 16
BI&E	Jeremy B. Hubert	OTS St. No. 3 OTS St. No. 3-SR	OTS Exhibit No. 3, Schedules 1 through 4 OTS Exhibit No. 3-SR
OCA	Marilyn J. Kraus	OCA St. No. 1 OCA St. No. 1-S	Exhibit MJK-1
OCA	Max E. Stoner, P.E.	OCA St. No. 2 OCA St. No. 2-S	Exhibits A through Q

20. This Joint Petition is proposed to settle the instant matter and is made without any admission against or prejudice to any positions that any Joint Petitioner might adopt during subsequent litigation in any case, including further litigation in this case if this Joint Petition is

rejected by the Commission or withdrawn by any one of the Joint Petitioners as provided below. The Joint Petition does not establish precedent and neither the Joint Petition nor Commission approval of the Joint Petition shall be cited in any other proceeding. This Joint Petition is conditioned upon the Commission's approval of all terms and conditions contained herein. Joint Petitioners agree that, other than as set forth in Paragraph 16 above, the Joint Petition does not expressly or implicitly represent approval of any specific claim or claims made in this proceeding and agree not to contend otherwise in any subsequent proceeding. If the Commission should fail to grant such approval or should modify the terms and conditions herein, this Joint Petition may be withdrawn by any Joint Petitioner upon written notice to the Commission and all parties within three business days by any of the Joint Petitioners. In such event, the Joint Petition shall be of no force and effect. In the event that the Commission does not approve the Joint Petition or any Joint Petitioner elects to withdraw as provided above and the proceeding continues to hearing, the Joint Petitioners reserve their respective right to conduct full cross-examination of other parties witnesses at hearing, briefing and argument in this rate proceeding.

21. If the Administrative Law Judge in her Recommended Decision recommends that the Commission adopt the Joint Petition without modification as herein proposed, the Joint Petitioners agree to waive the filing of Exceptions. However, the Joint Petitioners do not waive their right to file Exceptions with respect to any modifications to the terms and conditions of this Joint Petition, or any additional matters, proposed by Judge Barnes in her Recommended Decision. The Joint Petitioners reserve their rights to file Reply Exceptions to any Exceptions which may be filed.

22. In recognition of the foregoing, the Joint Petitioners respectfully request that:

(a) Administrative Law Judge Barnes recommend and the Commission grant approval of this Joint Petition and all terms and conditions as contained herein;

(b) NAWC be granted special permission to file a tariff supplement in the form attached hereto as Appendix A to become effective for service on one day's notice, following entry of a Commission Order;

(c) The Commission's investigation at R-2011-2230259 be terminated and marked closed;

(d) The Petition proceeding at P-2010-2213642 be terminated and marked closed;

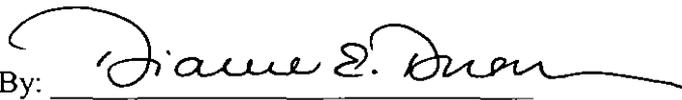
(e) The Complaint of the Office of Consumer Advocate at C-2011-2230952 be dismissed consistent with this Joint Petition for Settlement and marked closed.

IN WITNESS WHEREOF, the Joint Petitioners hereto have duly executed this Joint Petition for Settlement as of the date indicated herein.

BUREAU OF INVESTIGATIONS AND ENFORCEMENT

By: 
Adeolu A. Bakare
Prosecutor

OFFICE OF CONSUMER ADVOCATE

By: 
Dianne E. Dusman
Senior Assistant Consumer Advocate
Shaun A. Sparks
Assistant Consumer Advocate

THE NEWTOWN ARTESIAN WATER COMPANY

By: 
Thomas T. Niesen, Esquire
Brenden Brett, Esquire

APPENDIX A

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
Water-Pa. P.U.C. No. 9

THE NEWTOWN ARTESIAN WATER COMPANY

Rates and Rules
Governing the Supply
of Water Service
in
Newtown Borough,
the Township of Newtown and
the Township of Middletown,
Bucks County, Pennsylvania

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ISSUED:

EFFECTIVE:

E. Anne Jones, Secretary
The Newtown Artesian Water Company
Newtown, Pennsylvania 18940

NOTICE

This Tariff Makes Increases, Decreases and/or Changes in Rates and in Existing Rules and Regulations.

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 2
Canceling
Revised Page No. 2

LIST OF CHANGES MADE BY THIS SUPPLEMENT

Increases:

This tariff supplement increases all meter rates and flat rates to produce additional annual revenue of \$350,000.

Surcharge/Clause Roll In and Reset:

This tariff supplement rolls the existing state tax adjustment surcharge of 0.50% into base rates and resets the surcharge to 0.00%.

This tariff supplement rolls the existing distribution system improvement charge of 1.74% into base rates and resets the charge to 0.00%.

This tariff supplement rolls the existing Purchased Water Adjustment Charge of \$0.4389 per 1,000 gallons into base rates and resets the Charge to \$0.00 per 1,000 gallons.

Changes:

This tariff supplement changes the Purchased Water Adjustment Clause by adding Pennsylvania American Water Company as a seller of water to the Company.

This tariff supplement changes the Purchased Water Adjustment Clause by recalculating the baseline items.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 3
Canceling
Revised Page No. 3

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Schedule of Flat Rates			
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Wholesale Water Service	6	- Seventh Revised	(C)
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Water Conservation	24	- First Revised	
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(C) Indicates change.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 4
Canceling
Revised Page No. 4

STATE TAX ADJUSTMENT SURCHARGE

In addition to the changes in this tariff, a surcharge of 0.00% will apply (D) to all bills for services rendered on or after March 1, 2012.

The above surcharge will be recomputed, using the elements prescribed by the Commission:

- (a) Whenever any of the tax rates used in calculation of the surcharge are changed;
- (b) Whenever the utility makes effective increased or decreased rates;
- (c) And on March 31, 1975, and year thereafter.

The above recalculation will be submitted to the Commission within ten (10) days after the occurrences of the event or date which occasions such recomputation. If the recomputed surcharge is less than the one in effect the utility will, and if the recomputed surcharge is more than the one then in effect, the utility may submit with such recomputation a tariff or supplement to reflect such recomputed surcharge, the effective date of which shall be ten (10) days after filing.

(D) Indicates decrease.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 5
Canceling
Revised Page No. 5

SCHEDULE OF METER RATES

Application

This schedule is applicable to metered domestic, commercial, industrial, and public customers.

Meter Rates

Per 1,000 Gallons

All water used - Newtown Artesian Rate Area	\$5.394	(I)
All water used - Indian Rock Rate Area	5.874	(I)

Minimum Charges

Each metered customer shall pay a quarterly service charge based upon the size of the meter required to render adequate service.

<u>Size of Meter</u>	<u>Quarterly Service Charge</u>	
5/8 inch	\$ 19.38	(I)
3/4 inch	29.10	(I)
1 inch	48.48	(I)
1 1/2 inch	96.96	(I)
2 inch	155.13	(I)
3 inch	290.88	(I)
4 inch	484.83	(I)
6 inch	969.69	(I)
8 inch	1,551.48	(I)
10 inch	2,230.26	(I)

Purchased Water Adjustment Clause

A Purchased Water Adjustment Clause of \$0.00 per 1,000 gallons is applied (D) to metered sales.

(I) Indicates increase.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
 Newtown, Pennsylvania 18940

Supplement No.
 To
 WATER-PA. P.U.C. No. 9
 Revised Page No. 6
 Canceling
 Revised Page No. 6

Public and Private Fire Protection

Per Quarter

Newtown Artesian Rate Area			
Each standard hydrant		\$ 77.36	(I)
Each sprinkler system			
First 300 sprinkler heads or less			
6" connection or smaller		\$ 103.34	(I)
8" connection		\$ 120.55	(I)
Each sprinkler head over 300		\$.39	(I)
Indian Rock Rate Area			
Hydrants		\$ 93.06	(I)
Each sprinkler system			
First 300 sprinkler heads or less			
6" connection or smaller		\$ 103.34	(I)
8" connection		\$ 120.55	(I)
Each sprinkler head over 300		\$.39	(I)

Wholesale Water Service

For water sold to Pennsylvania-American Water Company - Yardley Service Area. In the event wholesale sales to Pennsylvania-American Water Company result in an increase in Newtown Artesian Water Company's minimum take-or-pay obligations to the Bucks County Water and Sewer Authority and to the extent Newtown Artesian Water Company is unable to sell all such water it is obligated to purchase, Pennsylvania-American Water Company will pay Newtown Artesian Water Company for all such unsold water at its actual cost for a period ending June 7, 2024.

	Per 1,000	
	<u>Gallons</u>	
Demand charge	\$.850	(I)
Electric for pumping	actual cost	
Purchased water cost	actual cost	

(I) Indicates increase.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 30
Canceling
Revised Page No. 30

Distribution System Improvement Charge (DSIC)

Earning Reports:

The charge will also be reset at zero if, in any quarter, data filed with the Commission in the Company's then most recent Annual or Quarterly Earnings reports show that the Company will earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the DSIC as described in the Pre-tax return section, or where two years have elapsed since an applicable ROE determination in a rate order, the top of the ROE range as specified in the Commission's most recent Quarterly Report on Earnings of Jurisdictional Utilities, labeled Market Indicated Common Equity Cost Rate in its Value Line Water Company Group analysis.

Customer Notice:

Customers shall be notified of changes in the DSIC by including appropriate information on the first bill they receive following any change. An explanatory bill insert shall also be included with the first billing.

DSIC Surcharge:

The DSIC Surcharge is zero.

(D)

(D) Indicates decrease.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 31
Canceling
Revised Page No. 31

Purchased Water Adjustment Charge

The Company may apply a Purchased Water Adjustment Clause ("PWAC") to its water rates set forth under Schedule of Metered Rates to reflect an increase or decrease in the rates charged by its wholesale water suppliers, Bucks County Water and Sewer Authority ("BCWSA") and Pennsylvania American Water Company ("PENN-AM"), who are referred to jointly as "Wholesalers." The purchased water adjustment charges will not apply to wholesale customers because they are billed the actual cost of purchased water each month on a current basis. (C)

The PWAC will be calculated based on changes in the Company's Wholesalers rates from the purchased water included in the Company's Baseline Cost. For the purpose of calculating the PWAC the Baseline Cost is the annual purchased water cost reflected as an operating expense in the Company's most recently concluded base rate case. This amount will remain constant until such time base rates are reset. (C)

The utility shall provide notice to its customers of such change in rates resulting from application of the PWAC.

When the Company's water suppliers change their rates for water purchased by the Company, the Company will re-compute the PWAC based upon its annual purchased water cost reflecting the level of consumption and other billing determinants that formed the basis for the Baseline Cost. (C)

Determination of Purchased Water Adjustment Charge

A PWAC may be implemented on the effective date of a change in Wholesalers' rates charged to the Company for purchased water but not on less than forty-five (45) days notice. The Company may, at its option, implement a PWAC, to recover an increase in purchased water costs. However, if the rate change is a decrease, the Company must implement a credit PWAC to reflect that decrease. (C)

The baseline items determined in the Company's most recently concluded base rate case are:

Baseline Purchased Water Cost (per thousand gallons)	\$3.45	(I)
BCWSA (Customer)	\$0.01	(I)
BCWSA (Consumption)	\$3.44	(I)
PENN-AM	\$0.00	
Baseline 1,000 Gallons of Purchased Water	462,972	(I)
BCWSA	462,972	
PENN-AM	0	
Baseline 1,000 Gallons of Water Sales	785,882	(D)

The PWAC, per thousand gallons, shall be computed to the nearest one-hundredth cent (0.01¢) in accordance with the formulas set forth below:

$$PWAC = \frac{(CHGPWC \times 462,972)}{785,882}$$

(D) (D)

(C) Indicates change; (D) Indicates decrease; (I) Indicates increase.

Issued:

Effective:

NEWTOWN ARTESIAN WATER COMPANY
Newtown, Pennsylvania 18940

Supplement No.
To
WATER-PA. P.U.C. No. 9
Revised Page No. 32
Canceling
Revised Page No. 32

Purchased Water Adjustment Charge

Determination of Purchased Water Adjustment Charge (Continued)

In computing the PWAC, per thousand gallons, pursuant to the formulas above, the following definitions shall apply:

"CHGPWC" - Change in Purchased Water Cost, per thousand gallons, is determined by subtracting the Baseline Purchased Water Cost per thousand gallons from the Company's most recently concluded base rate case from the Pro Forma Purchased Water Cost per thousand gallons that arises from the Wholesalers change of the rates. (C)

"PWAC" - The PWAC determined to the nearest one-hundredth cent (0.01¢) to be charged for each thousand gallons of domestic metered water sales supplied under Schedule of Metered Rates after allowance for any applicable state gross receipts tax. (C)

Safeguards (C)

Annual Reconciliation (C)

The Company will provide an annual reconciliation of PWAC revenues with the cost of purchase water from the Wholesalers pursuant to Section 1307(e) of the Public Utility Code upon implementation of a PWAC. The revenue received under the PWAC for the reconciliation period will be compared to the Company's eligible costs for that period. The difference between revenue and costs will be recouped or refunded, as appropriate, in accordance with Section 1307 (e), over a one-year period commencing on May 1 of each year. If PWAC revenues exceed PWAC-eligible costs, such overcollections will be refunded with interest. Interest on the overcollections will be calculated at the residential mortgage lending specified by the Secretary of Banking in accordance with the Loan Interest and protection Law (41 P.S. Sec. 101, et seq.) and will be refunded in the same manner as an overcollection. (C)

New Base Rates (C)

The charge will be reset at zero as of the effective date of new base rates that provide for prospective recovery of the annual costs that had theretofore been recovered under the PWAC. Thereafter, only new purchased water adjustments, which have not previously been reflected in the Company's base rate, are eligible for PWAC recovery. (C)

Cap

The PWAC shall not exceed seven and one-half percent (7.5%) of the amount billed to customers, exclusive of the amounts recovered under the State Tax Adjustment Surcharge.

(C) Indicates change.

Issued:

Effective:

APPENDIX B

THE NEWTOWN ARTESIAN WATER COMPANY

NEWTOWN, PENNSYLVANIA

PROOF OF REVENUE UNDER SETTLEMENT RATES

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Gannett Fleming
Valuation and Rate Division

Harrisburg, Pennsylvania

Calgary, Alberta

Valley Forge, Pennsylvania

THE NEWTOWN ARTESIAN WATER COMPANY

STATEMENT OF OPERATING REVENUES FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010 AND DECEMBER 31, 2011
AND THE CALCULATION OF THE PROPOSED REVENUE INCREASE BY CUSTOMER CLASSIFICATION

Pursuant To Subsection 53.52 (b)(4) and (c)(5) of Tariff Regulations

Customer Classification (1)	Revenues Per Books, 12 Months Ended 12/31/2010 (2)	Pro Forma Historic Test Year Adjustments Under Present Rates		Pro Forma, Present Rates, 12/31/2010 (5)	Pro Forma Future Test Year Adjustments Under Present Rates		Pro Forma, Present Rates, 12/31/2011 (8)	Settlement Rates Under Proposed Supplement No. ___ to Tariff Water Pa-PUC No. 9		
		Ref. (3)	Amount (4)		Ref. (6)	Amount (7)		Increase		Pro Forma, Proposed Rates 12/31/2011 (11)
								Percent (9)	Amount (10)	
Sales of Water										
Residential	\$ 3,599,476	R1, 2, 3, 6	\$ 117,176	\$ 3,716,652	R7, R9	\$ 91,814	\$ 3,808,466	4.7%	\$ 180,818	\$ 3,989,284
Commercial	813,790	R1, 2, 3, 6	39,733	853,523	R7, R9	21,093	874,616	10.1%	88,100	962,716
Industrial	340,400	R1, 2, 6	18,593	358,993	R9	6,848	365,841	10.4%	38,180	404,021
Public	42,853	R1, 2, 6	2,213	45,066	R9	870	45,936	9.9%	4,550	50,486
Private Fire Protection	140,752	R1, 2, 4	2,721	143,473	R8	8,415	151,888	13.9%	21,184	173,072
Public Fire Protection	206,517	R1, 2, 5	(824)	205,693		-	205,693	7.5%	15,510	221,203
Total Sales of Water	5,143,788		179,612	5,323,400		129,040	5,452,440	6.4%	348,342	5,800,782
Other Operating Revenues										
Penalties	10,044			10,044			10,044		642	10,686
Turn-on/off fees, etc.	22,574			22,574			22,574			22,574
Rents from Water Property	82,403			82,403			82,403			82,403
Miscellaneous Sales	11,824			11,824			11,824		932	12,756
Total Other Revenues	126,845		-	126,845		-	126,845		1,574	128,419
Total Operating Revenues	\$ 5,270,633		\$ 179,612	\$ 5,450,245		\$ 129,040	\$ 5,579,285	6.3%	\$ 349,916	\$ 5,929,201

THE NEWTOWN ARTESIAN WATER COMPANY

SUMMARY OF APPLICATION OF PRESENT AND SETTLEMENT RATES TO BILL ANALYSIS AND DEVELOPMENT OF PRO FORMA REVENIUES UNDER SETTLEMENT RATES

Customer Classification (1)	Base Rate Revenues Per Books (2)	Application of Present Rates** to Bill Analysis 12/31/2010 (3)	Adjustment Factor (4)	Application of Settlement Rates** to Bill Analysis 12/31/2010 (5)	Test Year Revenues at Settlement Rates (6)	Pro Forma Adjustments Under Settlement Rates		Pro Forma Revenues Under Settlement Rates (9)
						Historic (7)	Future (8)	
Residential	\$ 3,461,693	\$ 3,469,865	0.997645	\$ 3,967,458	\$ 3,958,114	\$ 9,821	\$ 21,349	\$ 3,989,284
Commercial	785,453	788,790	0.995769	958,278	954,224	3,088	5,404	962,716
Industrial	329,221	327,836	1.004226	402,321	404,021			404,021
Public	<u>41,813</u>	<u>41,306</u>	1.012264	<u>49,874</u>	<u>50,486</u>			<u>50,486</u>
Total Metered Sales	\$ 4,618,180	\$ 4,627,797		\$ 5,377,931	\$ 5,366,845	\$ 12,909	\$ 26,753	\$ 5,406,507
Private Fire Protection	143,473 *	143,473	1.000000	163,497	163,497		9,575	173,072
Public Fire Protection	<u>205,693 *</u>	<u>205,693</u>	1.000000	<u>221,203</u>	<u>221,203</u>			<u>221,203</u>
Total Sales of Water	<u>\$ 4,967,346</u>	<u>\$ 4,976,963</u>		<u>\$ 5,762,631</u>	<u>\$ 5,751,545</u>	<u>\$ 12,909</u>	<u>\$ 36,328</u>	<u>\$ 5,800,782</u>

* Reflects Adjustments R4 amd R5.

** Base Rates.

THE NEWTOWN ARTESIAN WATER COMPANY

APPLICATION OF PRESENT AND SETTLEMENT RATES TO CONSUMPTION ANALYSIS
YEAR ENDED DECEMBER 31, 2010

<u>Rate Block</u> 1000 Gallons (1)	<u>Number</u> <u>of Bills</u> (2)	<u>Total</u> <u>Consumption</u> (3)	<u>Present</u> <u>Base Rate</u> (4)	<u>Present</u> <u>Revenue</u> (5)	<u>Proposed</u> <u>Settlement</u> <u>Base Rate</u> (6)	<u>Settlement</u> <u>Revenue</u> (7)
<u>Residential</u>						
<u>Customer Charge</u>						
5/8 Quarterly	36,208	0	\$ 16.72	\$ 605,398	\$ 19.38	\$ 701,711
3/4 Quarterly	298	0	25.08	7,474	29.10	8,672
1 Quarterly	861	0	41.80	35,990	48.48	41,741
1 1/2 Quarterly	39	0	83.59	3,260	96.96	3,781
2 Quarterly	28	0	133.75	3,745	155.13	4,344
Subtotal	37,434	0		655,867		760,249
<u>Consumption</u>						
Newtown		183,404	4.37	801,475	5.394	989,281
Indian Rock		377,584	5.33	2,012,523	5.874	2,217,928
Subtotal	0	560,988		2,813,998		3,207,209
Total Residential	37,434	560,988		\$ 3,469,865		\$ 3,967,458
<u>Commercial</u>						
<u>Customer Charge</u>						
5/8 Quarterly	1,594	0	\$ 16.72	\$ 26,652	\$ 19.38	\$ 30,892
3/4 Quarterly	92	0	25.08	2,307	29.10	2,677
1 Quarterly	359	0	41.80	15,006	48.48	17,404
1 1/2 Quarterly	131	0	83.59	10,950	96.96	12,702
2 Quarterly	207	0	133.75	27,686	155.13	32,112
3 Monthly	72	0	83.59	6,018	96.96	6,981
4 Monthly	48	0	139.32	6,687	161.61	7,757
6 Monthly	36	0	278.65	10,031	323.23	11,636
8 Monthly	36	0	445.83	16,050	517.16	18,618
10 Monthly	12	0	640.88	7,691	743.42	8,921
Subtotal	2,587	0		129,078		149,700
<u>Consumption</u>						
Newtown		141,065	4.37	616,454	5.394	760,905
Indian Rock		8,116	5.33	43,258	5.874	47,673
Subtotal	0	149,181		659,712		808,578
Total Commercial	2,587	149,181		\$ 788,790		\$ 958,278

THE NEWTOWN ARTESIAN WATER COMPANY

APPLICATION OF PRESENT AND SETTLEMENT RATES TO CONSUMPTION ANALYSIS
YEAR ENDED DECEMBER 31, 2010

<u>Rate Block</u> 1000 Gallons (1)	<u>Number</u> <u>of Bills</u> (2)	<u>Total</u> <u>Consumption</u> (3)	<u>Present</u> <u>Base Rate</u> (4)	<u>Present</u> <u>Revenue</u> (5)	<u>Proposed</u> <u>Settlement</u> <u>Base Rate</u> (6)	<u>Settlement</u> <u>Revenue</u> (7)
<u>Industrial</u>						
<u>Customer Charge</u>						
5/8 Quarterly	32	0	\$ 16.72	\$ 535	\$ 19.38	\$ 620
3/4 Quarterly	52	0	25.08	1,304	29.10	1,513
1 Quarterly	29	0	41.80	1,212	48.48	1,406
1 1/2 Quarterly	16	0	83.59	1,337	96.96	1,551
2 Quarterly	37	0	133.75	4,949	155.13	5,740
6 Monthly	24	0	278.65	6,688	323.23	7,758
10 Monthly	24	0	640.88	15,381	743.42	17,842
Subtotal	214	0		31,406		36,430
<u>Consumption</u>						
Newtown		67,833	4.37	296,430	5.394	365,891
Indian Rock		0	5.33	0	5.874	0
Subtotal	0	67,833		296,430		365,891
Total Industrial	214	67,833		\$ 327,836		\$ 402,321
<u>Public</u>						
<u>Customer Charge</u>						
5/8 Quarterly	4	0	\$ 16.72	\$ 67	\$ 19.38	\$ 78
2 Quarterly	16	0	133.75	2,140	155.13	2,482
3 Monthly	12	0	83.59	1,003	96.96	1,164
4 Monthly	12	0	139.32	1,672	161.61	1,939
6 Monthly	12	0	278.65	3,344	323.23	3,879
Subtotal	56	0		8,226		9,542
<u>Consumption</u>						
Newtown		6,704	4.37	29,296	5.394	36,161
Indian Rock		710	5.33	3,784	5.874	4,171
Subtotal	0	7,414		33,080		40,332
Total Public	56	7,414		\$ 41,306		\$ 49,874
Total Metered Sales	40,291	785,416		\$ 4,627,797		\$ 5,377,931

THE NEWTOWN ARTESIAN WATER COMPANY

APPLICATION OF PRESENT AND SETTLEMENT RATES TO CONSUMPTION ANALYSIS
YEAR ENDED DECEMBER 31, 2010

<u>Rate Block</u> <u>1000 Gallons</u> (1)	<u>Number</u> <u>of Bills</u> (2)	<u>Total</u> <u>Consumption</u> (3)	<u>Present</u> <u>Base Rate</u> (4)	<u>Present</u> <u>Revenue</u> (5)	<u>Proposed</u> <u>Settlement</u> <u>Base Rate</u> (6)	<u>Settlement</u> <u>Revenue</u> (7)
---	---	---	---	---	---	--

Private Fire Protection

<u>Quarterly</u>	<u>No. of</u> <u>Connections</u>					
4-inch Service	11	\$ 89.09	\$ 3,920	\$ 103.34	\$ 4,547	
6-inch Service	94	89.09	33,498	103.34	38,856	
8-inch Service	35	103.92	14,549	120.55	16,877	
Private Hydrants - Newtown	224	66.69	59,754	77.36	69,315	
Private Hydrants - Indian Rock	69	89.09	24,589	93.06	25,685	
Sprinkler Heads > 300 per Line	5,267	0.34	7,163	0.39	8,217	
Total			\$ 143,473		\$ 163,497	

Public Fire Protection

<u>Quarterly</u>	<u>No. of</u> <u>Connections</u>					
Public Hydrants - Newtown	206	\$ 66.69	\$ 54,953	77.36	\$ 63,745	
Public Hydrants - Indian Rock	423	89.09	150,740	93.06	157,458	
Total			\$ 205,693		\$ 221,203	

APPENDIX C

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2011-2230259
Office of Consumer Advocate	:	C-2011-2230952
	:	
v.	:	
	:	
The Newtown Artesian Water Company	:	
	:	
Petition of The Newtown Artesian Water Company	:	P-2010-2213642
	:	

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**THE NEWTOWN ARTESIAN WATER COMPANY'S
STATEMENT IN SUPPORT OF JOINT PETITION
FOR SETTLEMENT OF RATE INVESTIGATION
AND PETITION PROCEEDINGS, INCLUDING
REQUEST FOR EXPEDITED TREATMENT**

**TO THE HONORABLE ELIZABETH H. BARNES,
ADMINISTRATIVE LAW JUDGE**

AND NOW, comes The Newtown Artesian Water Company ("NAWC" or "Company"), by its attorneys, and respectfully submits the following statement in support of the Joint Petition for Settlement ("Joint Settlement Petition") filed with the Public Utility Commission ("Commission") by NAWC, the Bureau of Investigations and Enforcement ("BI&E") and the Office of Consumer Advocate ("OCA") in the above captioned consolidated rate investigation and petition proceedings.

I. INTRODUCTION

NAWC is a Pennsylvania public utility that provides water service to the public in Newtown Borough and the Townships of Newtown and Middletown, Bucks County, Pennsylvania.

On March 10, 2011, NAWC filed Supplement No. 82 to Tariff Water-Pa. P.U.C. No. 9 ("Supplement No. 82") proposing to increase rates by \$999,839 in two steps effective May 9, 2011 and January 1, 2012. A driving factor in the rate filing was increased purchased water costs from the

Bucks County Water and Sewer Authority (“BCWSA”) that were placed into effect by BCWSA on January 1, 2011 and projected by BCWSA beginning January 1, 2012.

In addition to the filing of Supplement No. 82 on March 10, 2011, the Company also filed two Petitions related to the recovery of the increase in purchased water cost implemented by BCWSA on January 1, 2011.

NAWC filed the first of the two Petitions, docketed to P-2010-2211420, on November 19, 2010 seeking special permission to file a tariff supplement increasing the Company’s Purchased Water Adjustment Clause (“PWAC”) to \$0.4389 per 1,000 gallons reflective of the full cost of purchased water implemented by BCWSA on January 1, 2011. The Commission granted the Petition in an Order entered June 21, 2011.

NAWC filed the second of the two Petitions, docketed to P-2010-2216342, on December 20, 2010, seeking to defer and record unrecovered purchased water costs that NAWC would incur as a result of the January 1, 2011 increase in purchased water charges. Administrative Law Judge Barnes consolidated this Petition with the rate investigation at R-2011-2230259.

On June 21, 2011, NAWC filed Supplement No. 86 to Tariff Water-Pa. P.U.C. No. 9 (“Supplement No. 86”) as permitted by the Order entered June 21, 2011 at P-2010-2211420. Supplement No. 86 increased the Company’s PWAC to \$0.4389 per 1,000 gallons. The increased purchased water cost recovery through the increased PWAC addressed part but not all of the ratemaking claims presented in the Company’s base rate filing.

NAWC, the BI&E and the OCA (the “Settling Parties”) have agreed that the consolidated rate investigation and petition proceedings can be settled without further litigation under the terms set forth in the Joint Settlement Petition with the purchased water revenue presently being collected

through the PWAC - \$344,923 on an annual basis - being moved into base rates and with a further increase in base rates of \$350,000.

Extensive negotiation preceded the filing of the Joint Settlement Petition. Although less than the increase supported by NAWC's filing and the revised supporting analysis submitted with NAWC Statement No. 1-R, the rebuttal testimony of Company witness Herbert, the Company accepts the settlement increase as a reasonable and appropriate resolution of these rate and petition proceedings.

**The Proposed Settlement Is Consistent With
Commission Regulations And In The Public Interest**

It is the stated policy of the Commission to encourage parties in contested proceedings to enter into settlements. 52 Pa. Code §5.231(a). A settlement mitigates the time and expense of litigating the matter to its ultimate conclusion. This directly benefits all parties concerned.

The Joint Settlement Petition proposes the resolution of all issues in the consolidated rate and petition proceedings. Where the active parties in a proceeding have reached a settlement, the principal issue for Commission consideration is whether the agreement reached is in the public interest. *Pa. P.U.C. v. CS Water and Sewer Associates*, 74 Pa. P.U.C. 767, 771 (1991).

The Settling Parties agree that, based upon the evidence of record, the resolution of the issues proposed in the Joint Settlement Petition is in the public interest and consistent with the requirements of the Public Utility Code. The settlement rate level should provide NAWC with the cash flow to continue to provide reasonable and adequate service. The settlement terms also should enable NAWC to address increases in purchased water costs being discussed with BCWSA without the need for a base rate filing. The settlement "stay out" provision for non-purchased water costs will afford ratepayers a measure of rate stability that would not exist absent the provision.

Specific Settlement Terms and Conditions

Several specific settlement terms and conditions are presented in the Joint Settlement Petition. They further the interest of NAWC, NAWC's customers and the public for the additional reasons that follow.

Revenue Increase

At present rates on an annual basis (after giving effect to the increase in purchased water costs approved by the Commission and implemented by NAWC with the filing of Supplement No. 86), a Newtown Rate Area residential customer pays \$363.92 (4 x \$90.98 per quarter) for water service and an Indian Rock Rate Area residential customer pays \$423.00 (4 x \$105.75 per quarter). Under the water rates proposed in the settlement supplement attached as Appendix A to the Joint Settlement Petition, a Newtown Rate Area residential customer will pay \$401.16 (4 x \$100.29 per quarter) for water service and an Indian Rock Rate Area residential customer will pay \$429.96 (4 x \$107.49 per quarter).

As is common in general base rate proceedings, the settlement is "black box," meaning that the parties have not negotiated each and every revenue and expense line item but rather have, after considerable effort, been able to agree upon a final revenue number based on their individual revenue and expense analysis. The Company, however, also has agreed to accept the settlement increase in final resolution of several amortized deferred expense claims. The specific claims and amounts, which are identified in Paragraph 16 of the Joint Settlement Agreement, are as follows:

- i. Unrecovered Purchased Water Costs, \$179,531, 2-yr. amortization, or \$89,766 annually (Revised claim - \$91,755, or \$45,878 annually)
- ii. Abandoned Well – St. Clare (Monastery), \$120,523, 10-yr. amortization, or \$12,052 annually

- iii. Abandoned Well – Holy Family, \$120,066, 10-yr. amortization, or \$12,007 annually
- iv. Abandoned Well – H/M (Middletown), \$7,062, 10-yr. amortization, or \$696 annually
- v. Abandoned Well – Wiggins, \$46,647, 10-yr. amortization, or \$4,656 annually
- vi. Abandoned Well – Well #7 (Linton Hill), \$290,474, 10-yr. amortization, or \$29,051 annually
- vii. Service Territory Application Proceedings – (Toll-Hibbs, Toll-Gray), \$216,145, 10-yr. amortization, or \$21,614 annually

The Company's revised supporting data supports a base rate increase of \$455,007 over present rates. Although the settlement rate level of \$350,000 is less than that supported by the Company's revised supporting data, the Company accepts the increase of \$350,000 in settlement of the proceeding.¹

Purchased Water Costs

Current Purchased Water Costs

Purchased water costs were the primary factor driving the rate filing. In November 2010, the BCWSA, from which the Company presently buys more than 50% of its water supply, notified NAWC that, effective January 1, 2011, it would be increasing its charges for purchased water from \$2.68 per 1,000 gallons to \$3.45 per 1,000 gallons. On a dollar annual basis, the increased cost to NAWC was approximately \$351,929.

On November 16, 2010, NAWC filed Supplement No. 80 to Tariff Water - Pa. P.U.C. No. 9 increasing its PWAC to \$0.1909 per 1,000 gallons (the maximum allowed 3% of revenue exclusive of the state tax adjustment surcharge), effective January 1, 2011, implementing a partial recovery of

¹ NAWC St. No. 1-R at 23. The \$455,007 increase is exclusive of consideration of the second step increase sought initially by the Company as a result of BCWSA purchased water costs projected as of January 1, 2012. NAWC is withdrawing the second step increase in settlement of these proceedings. With the second step increase included, the Company's total proposed, revised revenue increase was \$804,892 over two steps. NAWC St. No. 1-R at 23.

the increased purchased water charges. The Company also filed, and the Commission later granted, a petition seeking special permission to increase the PWAC to \$0.4389 per 1,000 gallons, which NAWC implemented through the filing of Supplement No. 86.

The settlement provides that current purchased water costs will be moved into base rates at \$3.44 per 1,000 gallons (Consumption) plus \$0.01 per 1,000 gallons (monthly customer charge) which are reflective of the current rates charged by BSWCA since January 1, 2011. It is reasonable and appropriate that this current cost level be rolled into base rates. With current purchased water costs moved into base rates, the PWAC will be reset to zero.

Projected Purchased Water Costs

In settlement, NAWC has agreed to withdraw its request for a second step rate increase effective January 1, 2012 based on projected purchased water costs. The withdrawal is without prejudice generally to any purchased water cost filing that the Company may present at any time concerning future purchased water costs that may occur either prior to January 1, 2012, effective January 1, 2012 or after January 1, 2012 and without prejudice specifically to any purchased water cost filing that the Company might make in regard to increases in purchased water costs that BCWSA has presented to NAWC, are under discussion and may be retroactive to May 1, 2011.

The purchased water cost increase under discussion involves BCWSA's May 2011 letter to NAWC. In that letter, BCWSA advised that it had approved a change to its wholesale water rate which will vary depending upon whether or not NAWC provides funding for additional sources of supply for the BCWSA water system.² NAWC has continued to discuss the funding demand with BCWSA during the course of the proceeding since receipt of the May letter. Although NAWC, in

² See NAWC St. No. 1-SD and NAWC St. No. 1-R at 6-7.

settlement, has agreed to withdraw its request for a second step increase that might have included BCWSA's most recent demand, it also has retained the ability to address the final purchased water cost resolution in purchased water cost filings. NAWC submits that the foregoing resolution of projected purchased water costs is reasonable and appropriate in settlement of these proceedings.

Purchased Water Adjustment Clause

NAWC also has agreed in settlement to withdraw its request to uncap the PWAC. The Settling Parties further agreed that the cap of 7.5% allowed by the Commission in the Order entered June 21, 2011, is appropriately included in the PWAC tariff clause and that OCA and BI&E withdraw any opposition to the 7.5% in this case and that they will not further challenge the 7.5% cap or appeal the Order entered June 21, 2011. NAWC submits that this term, which avoids further litigation, preserves resources and is in the public interest.

Stay Out

The Settlement provides that, with the exception of purchased water cost increases for which there is no "stay-out," NAWC will not file a general base rate case for twelve months after the Commission approves the Joint Settlement Petition. This "stay out" provides a measure of rate stability for customers that NAWC is willing to accept in settlement of the general rate proceeding. In the absence of the "stay out" NAWC would have the ability to make a general base rate filing following the conclusion of the present proceeding.

Operational Matters

In response to testimony of OCA witness Stoner, NAWC acknowledged, first, in the testimony of its witness Forsyth and then in the Joint Settlement Petition that it would shop for

electricity, develop a program to purchase chemicals in bulk and review well management software programs. NAWC accepts these operational settlement terms as consistent with and in furtherance of the public interest.

Request for Expeditious Commission Action

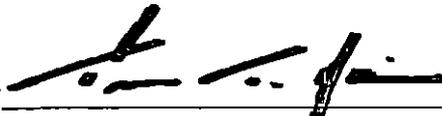
The Joint Petition requests that the Commission act as soon as possible to approve the Joint Settlement Petition. NAWC respectfully requests that the Commission act as soon as possible and expeditiously. NAWC was under recovering its purchased water costs by approximately \$16,800 per month (\$553 per day) from January 1, 2011 until the PWAC was increased on June 21, 2011.³ Expeditious action approving the settlement and allowing the Company to implement the settlement increase will ameliorate, somewhat, the lost purchased water expense incurred over that six month period. Moreover, the expeditious resetting of the PWAC to zero with the Company's filing of the settlement supplement will enable NAWC to address purchased water cost under discussion with BCWSA through the 7.5% PWAC "cap." At \$0.4389 per 1,000 gallons, the presently effective PWAC is near full recovery.

³ NAWC Exhibit No. 1A at 4.

WHEREFORE The Newtown Artesian Water Company respectfully requests that Administrative Law Judge Elizabeth H. Barnes and the Pennsylvania Public Utility Commission accept the foregoing in support of the Joint Petition for Settlement of Consolidated Rate Investigation and Petition Proceedings and further that Administrative Law Judge Barnes recommend approval of and the Commission approve the Joint Petition for Settlement.

Respectfully submitted,

By



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Attorneys for
The Newtown Artesian Water Company

APPENDIX D

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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MA FOR
SECRETARY'S BUREAU

Pennsylvania Public Utility :
Commission :
 : Docket Nos. R-2011-2230259, *et al.*
v. :
 :
The Newtown Artesian Water Company :

**BUREAU OF INVESTIGATION & ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT
OF RATE INVESTIGATION AND PETITION PROCEEDINGS**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

The Bureau of Investigation and Enforcement¹ (“BI&E”) of the Pennsylvania Public Utility Commission, (“Commission”) by and through its Prosecutor Adeolu A. Bakare hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Settlement of Rate Investigation and Petition Proceedings (“Joint Petition” or “Settlement”) is in the public interest and represents a fair, just, reasonable and equitable

¹ Pursuant to the Commission’s Final Procedural Order at Docket No. M-2008-2071852, entered August 11, 2001, the prosecutory functions of the former Office of Trial Staff are now performed by the newly created Bureau of Investigations & Enforcement.

balance of the interest of The Newtown Artesian Water Company (“Newtown” or “Company”) and its customers.

INTRODUCTION

1. BI&E is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission. Consequently, in negotiated settlements, it is incumbent upon BI&E to ensure that the public interest is served and to quantify to what extent amicable resolution of any such proceeding will benefit the public interest. Based upon the BI&E analysis of the Company’s filing, acceptance of this proposed settlement is in the public interest and BI&E recommends that Administrative Law Judge (“ALJ”) Elizabeth H. Barnes and the Commission approve the Joint Petition in its entirety.

2. All active parties to this proceeding participated in the settlement discussions that resulted in the foregoing Joint Petition. The active parties consist of the Company, BI&E and the Office of Consumer Advocate (“OCA”).

3. Prior to agreeing to the instant Settlement, BI&E (1) conducted a thorough review of the Company’s filing and supporting information, discovery responses and submitted filing data and contributed to the forthright discussions amongst the parties during settlement talks. The provisions of the Settlement represent a revenue increase that BI&E agrees is just and reasonable and in the public interest, but is not based upon

any specific adjustments or ratemaking approach, except for the ones specifically indicated.

PROCEDURAL HISTORY

4. On November 19, 2010, NAWC filed a Petition to File a Tariff Supplement on Less than Statutory Notice to Recover Increased Purchased Water Costs (“Tariff Petition”). In the Tariff Petition, NAWC requested permission to increase its purchased water adjustment clause (“PWAC”) from \$0.1909 to \$0.4389 per 1,000 gallons in order to recover the full amount of the BCWSA increase to purchased water costs that had become effective on January 1, 2010. The PWAC Petition was docketed to P-2010-2211420.

5. On December 20, 2010, NAWC filed a Petition to Defer and Record Unrecovered Purchased Water Costs (“Deferral Petition”) which was docketed to P-2010-2216342. In the Deferral Petition, NAWC sought to defer and record any purchased water costs not recoverable through the PWAC. BI&E and OCA filed Answers in opposition to the Deferral Petition.

6. On March 10, 2011, NAWC initiated the instant rate proceeding by filing Supplement No. 82 to Tariff Water-Pa. P.U.C. No. 9 (“Supplement 82”), proposing an annual increase in rates of \$999,839.

7. NAWC’s proposed increase was to become effective in dual phases, with a \$649,933 increase effective May 9, 2011 and the remaining \$349,906 increase effective January 1, 2012. In total, the Company’s request would result in an annual revenue

increase of approximately 18.6%. The Company's request would have increased quarterly bills from \$87.26 to \$108.69 for a residential customer using 15,000 gpd in the Newtown service area. The same customer in the Indian Rock service area would have experienced a quarterly bill increase from \$102.03 to \$115.89.

8. BI&E filed a Notice of Appearance for the rate proceeding on March 22, 2011. The Office of Consumer Advocate ("OCA") also filed a Notice of Appearance, *Formal Complaint and Public Statement on March 15, 2011 with a second Notice of Appearance* following shortly thereafter.

9. By Order entered June 16, 2010, the Commission instituted an investigation to determine the lawfulness, justness and reasonableness of the rates, rules and regulations proposed in Supplement No. 82. Through the same Order, the Commission assigned the rate proceeding to the Office of Administrative Law Judge for the prompt scheduling of such hearings and the issuance of a Recommended Decision. Administrative Law Judge ("ALJ") Elizabeth H. Barnes was designated as the presiding officer.

10. By Order entered April 4, 2011, ALJ Barnes consolidated the rate proceeding and the Deferral Petition at the request of the Company and with the consent of BI&E and OCA. ALJ Barnes presided over a prehearing conference for the consolidated dockets on May 23, 2011.

11. On June 21, 2011, the Commission issued an Order under Docket No. P-2010-2211420 granting the PWAC Petition and increasing the cap on PWAC recovery from 3% to 7.5% of NAWC's annual revenues.

12. BI&E, OCA and NAWC exchanged multiple rounds of discovery. BI&E and OCA served direct testimony on June 7, 2011. NAWC served its rebuttal testimony on July 7, 2011. BI&E and OCA served surrebuttal testimony on July 18, 2011.

13. Following the submission of rebuttal testimony, NAWC circulated a proposed settlement term sheet and the active parties proceeded to engage in settlement negotiations. The ensuing discussions reflected robust advocacy on behalf of all active parties which culminated in modifications to the Company's initially proposed term sheet and universal consent to the agreed upon Joint Petition.

14. BI&E considers Commission approval of the terms and conditions of the Joint Petition to have the same effect as full and complete litigation and further recognizes that final resolution of this proceeding by approval of the Joint Petition shall result in Commission-made rates.

SETTLEMENT TERMS

15. BI&E agrees that the terms and conditions of the Joint Petition are in the public interest. The foregoing paragraphs constitute a summary of the settlement provisions that BI&E deems particularly beneficial and in furtherance of the broad public interest.

- a. The Settlement provides for a single increase in annual base rate revenues of \$350,000 in lieu of the originally proposed two step increase totaling \$999,839. (Joint Petition, p. 4, ¶ 16(a)). The Settlement increase resolves the Deferral Petition at Docket No. P-2010-2213642. (Joint Petition, p. 5, ¶ 16(b)). Further, the Settlement increase precludes future requests for rate recovery of the amortized deferred expense claims submitted by NAWC in this proceeding. (Joint Petition pp. 4-5, ¶ 16(b)). BI&E agrees that this increase reflects compromise between the positions taken in testimony and will result in reasonable and lawful rates.
- b. The Settlement avoids the necessity of further administrative and possible appellate court proceedings, that would have been at substantial cost to the involved parties and the Company's jurisdictional ratepayers and thereby represents a conservation of time and saving of expenses for all involved. (Joint Petition, p. 7, ¶ 19).
- c. The Settlement provides that the Company cannot file for another base rate increase prior to twelve (12) months following the entry of a Commission Order approving this Joint Petition – a provision that provides a level of rate stability that would not exist if the case were fully litigated, (Joint Petition, p. 5, ¶ 6(e));

- d. The Settlement establishes just and reasonable terms for NAWC's PWAC. The Joint Petitioners agree that NAWC shall withdraw its proposal to eliminate the cap on costs recovered through the PWAC. (Joint Petition, p. 6, ¶ 6(d)) and no party shall further contest the 7.5% cap in this case or appeal the June 21, 2011 Commission Order entered at Docket No. P-2010-2211420. The inclusion of a cap on PWAC cost recovery preserves a level of risk exposure for NAWC which incentivizes continued implementation of efficient and cost-effective purchasing strategies. The cap provides ratepayers with a layer of protection from unreasonable pass-through costs and is a necessary component of any PWAC.

CONCLUSION

16. In conclusion, the Bureau of Investigations and Enforcement has been thoroughly involved in The Newtown Artesian Water Company's instant base rate proceeding. BI&E reiterates that it fully supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judge Elizabeth H. Barnes recommend and the Commission subsequently grant approval the terms and conditions set forth in the Joint Petition and accompanying appendices.

Respectfully submitted,



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Dated: August 17, 2011

APPENDIX E

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2011-2230259
Office of Consumer Advocate	:	C-2011-2230952
	:	
v.	:	
	:	
The Newtown Artesian Water Company	:	
	:	
Petition of The Newtown Artesian Water Company	:	P-2010-2213642
	:	

OFFICE OF CONSUMER ADVOCATE
STATEMENT IN SUPPORT

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PA Attorney I.D. #38308

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DATED: August 17, 2011

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I. INTRODUCTION

The Office of Consumer Advocate (OCA), one of the signatories to the Joint Petition for Settlement of Rate Investigation (Joint Petition or Settlement) in this proceeding, submits this Statement in Support of Pennsylvania Public Utility Commission (Commission) approval of the terms and conditions of the proposed Settlement. The OCA believes the proposed Settlement is in the public interest for the reasons discussed below.

In this Statement In Support, the OCA will discuss why the proposed Settlement satisfactorily addresses the rate and service issues identified by the OCA in its analysis of the Newtown Artesian Water Company (NAWC) rate filing and discovery responses. While the Settlement terms do not reach all recommendations the OCA may have proposed in litigation, the proposed Settlement terms and rates are within the range of reasonably expected litigation results. To the extent the OCA does not address a Settlement term in this Statement in Support, the OCA does not oppose the term. For all the reasons discussed below the OCA submits that approval of the proposed Settlement is in the public interest.

II. BACKGROUND

On March 10, 2011, Newtown filed Tariff Supplement No. 82 to Tariff Water - Pa. P.U.C. No. 9 ("Supplement No. 82"), to become effective May 9, 2011. Through Supplement No. 82, Newtown requested that the Commission approve increased rates, based upon an overall operating revenue increase of \$999,839 per year or 18.6% over the amount of annual revenues from customers at present rates. Newtown provides utility service to approximately 10,173 residential, commercial, industrial, public and fire protection customers in Newtown Borough, the Township of Newtown and the Township of Middletown in Bucks County.

Under the Company's proposed two-step increase, rates in the Newtown Artesian Rate Area would have increased on May 9, 2011 from approximately \$87.26 to \$102.08 per quarter, or by 17.0% for the residential customer using 15,000 gallons of water. Residential rates would increase a second time for Newtown Artesian Rate area residential customers by 6.5% on January 1, 2012, from \$102.08 to \$108.69. Under the two-step proposal, rates for the Indian Rock rate area residential customers would increase from approximately \$102.08 per quarter to \$109.28, or by 5.8% for the 15,000 gallons of consumption. On January 1, 2012, Indian Rock residential customers would increase from \$09.28 to \$115.89, or by 6.0% at the same level of usage.

In addition, Newtown proposed to modify its Purchased Water Adjustment Clause tariff to eliminate the 3% cap imposed by the Commission in its Order of April 15, 2010 at Docket No. P-2009-2117550. The Commission's Order was affirmed by the Commonwealth Court of Pennsylvania in its Opinion and Order of January 21, 2011, in Popowsky v. Pa. P.U.C., Docket No. 715 C.D. 2010. Subsequently, at Docket No. P-2010-2211420, the Commission increased the cap from 3% to 7.5%. This Settlement contemplates the use of the 7.5% cap and incorporates the 7.5% cap into the terms and conditions proposed here.

In addition to this, the background included in the Joint Petition is accurate. Petition at ¶¶ 1-15. The OCA would add the following. The OCA engaged in consumer outreach typical of Newtown rate proceedings. While the OCA did receive consumer correspondence in opposition to the rate increase, consumers were not interested in attending a public input hearing. The OCA therefore did not request a public input hearing in this matter.

The OCA will discuss how the Settlement addresses the issues raised by the OCA to its satisfaction.

III. STATEMENT IN SUPPORT OF SETTLEMENT

Like most settlements, the proposed Settlement terms and conditions are the product of compromise. The Commission encourages settlement and must therefore recognize the integral role of compromise in the settlement process. The OCA will explain how the compromises struck by the settling Parties resolve the issues identified by the OCA and how these compromises produce just and reasonable rates and are otherwise in the public interest.

A. Settlement Rates

Settlement paragraph 17 details the rate effect of the Settlement. The Settlement produces a significant decrease in rates from those originally proposed by NAWC. The OCA submits that the Settlement reductions from the as-filed rates support Commission approval of *the proposed Settlement without modification.*

As filed in March 2011 NAWC two-step increase proposed that a typical residential customer using 15,000 gallons per quarter would experience an increase of approximately \$21.43, or 24.6%, from \$87.26 to \$102.08 on May 9, 2011 and from \$102.08 to \$108.69 per quarter on January 1, 2012 in the Newtown Rate Area. In addition, the Indian Rock area would increase by approximately \$13.86, or 13.6%, from \$102.03 to \$109.28 per quarter on May 9, 2011 and from \$109.28 to \$115.89 per quarter on January 1, 2012. Supplement No. 86 on June 21, 2011 at Docket No. P-2010-2211420, increased the PWAC to \$0.4389 per 1,000 gallons, thus increasing quarterly cost of water service to a typical residential customer using 15,000 gallons per quarter is \$90.98 per quarter in the Newtown Rate Area and \$105.75 per quarter in the Indian Rock Rate Area.

Under the Joint Petition, the quarterly cost of water service to a typical residential customer using 15,000 gallons per quarter will increase from present levels by \$9.31, or 10.2%,

from \$90.98 to \$100.29 per quarter in the Newtown Rate Area and by \$1.74 or 1.6%, from \$105.75 to \$107.49 per quarter in the Indian Rock Rate Area. The Settlement does not contain a second step increase.

B. Revenues

Settlement paragraph 16(a) describes the proposed revenue increase that will generate the rates discussed above. In its initial filing, NAWC proposed an overall operating revenue increase of \$999,839 per year or an 18.6% over the approximate \$5.4 million of annual revenues from customers at present rates. Using NAWC's proposed over-all rate of return, the OCA recommended a revenue increase of no more than \$311,238, or approximately 5.8%. OCA St. No. 1 at 20. The Settlement provides for an increase of \$350,000 or approximately 6.5%, in addition to the purchased water rate increase approved by the Commission during the pendency of this proceeding. Joint Petition at ¶ 16a.

Regarding purchased water costs, the Settlement provides for recognition of NAWC's purchase water surcharge as a part of rates, and provides that the OCA will not challenge the 7.5% purchased water adjustment clause (PWAC) established by the Commission during the pendency of this proceeding. Joint Petition at ¶ 16(c)-(d). PWAC recognition also serves as consideration for NAWC's withdrawal of its proposed second rate step discussed above. While the Settlement leaves open the possibility of future changes in purchased water costs and cost recovery, the OCA is satisfied that the Settlement fairly resolves the PWAC issues presented in this proceeding.

C. Deferred expense claims

Over time, NAWC has accumulated a significant number of Commission-approved expense deferrals. In its rate proceedings, NAWC repeatedly claimed these as amortized expense claims, and the OCA repeatedly recommended that the Commission reject those claims for a variety of reasons. Here, for example, a portion of the testimony of OCA engineering witness Stoner addresses the validity of NAWC's deferred expense claims, OCA St. No. 2 at 4-15, and OCA accounting witness Kraus likewise addresses the validity of these claims. OCA St. No. 1 at 14-16. The Settlement resolves the regulatory uncertainty surrounding these claims. In consideration for the revenue increase described above, NAWC has agreed to relinquish amortized deferred expense claims identified at ¶ 16 (b) of the Settlement. In addition to producing rate savings here, this term will streamline future NAWC rate filings.

The Settlement resolves this issue to the satisfaction of the OCA. The OCA believes this compromise to be in the public interest and supports Commission approval of the proposed Settlement without modification.

D. Rate case stay-out

The settling Parties have agreed that NAWC will not file for a base rate increase prior to 12 months from Commission approval of this Joint Petition. Joint Petition at ¶ 16(e). This approximate one-year stay-out period will provide for rate stability for the customers of NAWC and will encourage efficient investment and operation on the part of the NAWC. In addition, customers will experience savings resulting from various recognized expenses escaping regulatory recovery over that time. Given likely litigation outcomes on these issues, the stay-out provision of the proposed Settlement is a reasonable compromise. The OCA therefore submits

that this aspect of the Settlement is in the public interest, and supports Commission approval of the Settlement without modification.

E. Additional considerations

OCA witness Stoner recommended several cost saving measures that NAWC has agreed to adopt in support of settlement. OCA St. No. 2 at 16-17. These are detailed at Settlement paragraph 16(f). These involve shopping for a least-cost electric generation supplier, improved purchasing procedures for chemicals, and the implementation of water well management software. In addition to making these cost-saving efforts, NAWC will inform the Parties of its progress in all these areas within 90 days of Commission approval of this Settlement.

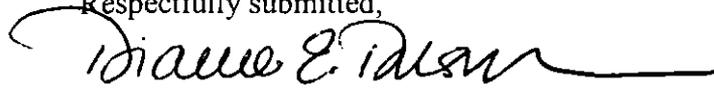
The Settlement resolves these issues to the satisfaction of the OCA. The OCA also believes that these conditions are in the public interest and should be approved without modification.

IV. CONCLUSION

The terms and conditions of the proposed Settlement represent a fair and reasonable resolution of the issues and claims arising in this proceeding. If approved, the proposed Settlement would produce revenues within a range of anticipated litigation outcomes. Under the Settlement, ratepayers will benefit from the rate limitations and stay-out provision. Finally, the Commission and all Parties would benefit by the reduction in rate case expense and the conservation of resources made possible by adoption of the Settlement in lieu of full litigation.

WHEREFORE, for the foregoing reasons, the Office of Consumer Advocate submits that the proposed Settlement is in the best interests of NAWC customers and should be approved without modification.

Respectfully submitted,



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Dated: August 17, 2011
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2011-2230259
Office of Consumer Advocate	:	C-2011-2230952
v.		
The Newtown Artesian Water Company	:	
:		
Petition of The Newtown Artesian Water Company	:	P-2010-2213642

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CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of August, 2011, served a true and correct copy of the Joint Petition for Settlement of Rate Investigation in the above matter, upon the persons and in the manner indicated below:

EMAIL AND HAND DELIVERY

Honorable Elizabeth H. Barnes
Administrative Law Judge
Pennsylvania Public Utility Commission
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400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

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