**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Harrisburg, Pa. 17105-3265**

**Pa. PUC, et al. Public Meeting of April 15, 2010**

 **v. 2117550-OSA**

**Newtown Artesian Water Company Docket No. R-2009-2117550;**

 **C-2009-2122003**

**Joint Motion of**

**Chairman James H. Cawley and Commissioner Robert F. Powelson**

The Recommended Decision (R.D.) in this case recommends that Supplement No. 68 to Tariff Water Pa. PUC No. 9 (Supplement No. 68), filed by the Newtown Artesian Water Company (the Company) be adopted by the Commission. Supplement No. 68 requested approval to establish a Purchased Water Adjustment Clause (PWAC). The Office of Consumer Advocate (OCA) and the Office of Trial Staff (OTS) filed Exceptions to the R.D. The Company filed Reply Exceptions.

The basis of the Company’s request is that it purchases 57% of its present water supply from the Bucks County Water and Sewer Authority (the Authority). The Company related that purchases from the Authority equal 34% of its Operation and Maintenance Expenses and 24% of its Operating Revenues.[[1]](#footnote-1)

The Company has purchased water from the Authority since June 7, 1984, pursuant to a contract that has an initial term of 40 years.[[2]](#footnote-2) Under the terms of the contract, the Company is obligated to take or pay for 1 million gallons per day. The Company explained that the Authority has the right to modify its rate and rate structure at its discretion, without notice. During years 1984-1995, the Authority increased rates twice, in 1993 in the amount of $0.20 per 1,000 gallons, and then in 1995 in the amount of $0.15 per 1,000 gallons. From 2002-2008, the Authority increased its purchased water rates four times totaling $1.33 per 1000 gallons. The Company received only

55-day notices of increases on average from the Authority.[[3]](#footnote-3)

The rates charged by the Authority are affected by the rates charged by the City of Philadelphia, from which the Authority obtains water. The City has increased its charges to the Authority by 127% since 2001. The Company claims that it cannot adequately and timely recover its water rate increases from the Authority due to regulatory lag.

The ALJ recommended that the clause be allowed with a modification—a cap of 3% of billed revenues (excluding State Tax Adjustment Surcharge revenues) placed upon the clause. The ALJ found that the clause is permissible under Section 1307(a) of the Public Utility Code, 66 Pa.C.S. §1307(a).

The OCA argued that the clause amounted to impermissible “single issue” ratemaking. The OTS made a similar argument. Additionally, the OTS argued that the Company’s claim was not in the public interest since the Company did not make a convincing argument that regulatory lag prevented the Company from recovering its purchased water costs.

We are very familiar with the general arguments for and against surcharge recovery mechanisms as noted most recently in the cases that increased the cap on the water Distribution System Improvement Charge (DSIC) mechanism. Here there are a number of similar benefits to the water DSIC cap increase, including reducing regulatory lag, contributing to more gradual changes in rates, and potentially reducing the number and frequency of base rate case filings. While we view these factors as positive, the facts specific to this proceeding also strongly support the findings and recommendations contained in the Recommended Decision. The Company has endured frequent rate increases from the Authority. The Authority is in a similar position based upon the frequency and magnitude of the increases from the City. Purchased water expense, at 34% of operating expenses, is a significant component of the Company’s cost of service.

We believe that adoption of the cap recommended by the ALJ will protect the Company’s customers from unreasonable increases. Additionally, the clause contains a reconciliation mechanism to account for over/under-collections.

**Therefore, we move that:**

1. The Exceptions of the Office of Consumer Advocate and the Office of Trial Staff be denied consistent with the Opinion and Order.
2. The Recommended Decision of the Administrative Law Judge be adopted consistent with the Commission’s Opinion and Order.
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Joint Motion.

**Date: ­April 15, 2010**

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**James H. Cawley**

 **Chairman**

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**Robert F. Powelson,**

 **Commissioner**

1. R.D. Findings of Fact 5 & 6. [↑](#footnote-ref-1)
2. This contract was approved by the Commission on July 6, 1984 at Docket No.

 P-840513. [↑](#footnote-ref-2)
3. R.D. Findings of Fact 8, 9, 10, & 11. [↑](#footnote-ref-3)