

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
BROADKILN BEACH WATER COMPANY) PSC DOCKET NO. 07-296
FOR AN INCREASE IN WATER RATES)
(FILED OCTOBER 26, 2007))

ORDER NO. 7390

AND NOW, this 20th day of May, 2008;

WHEREAS, on October 26, 2007, Broadkiln Beach Water Company filed an application seeking approval to increase its annual water service rate and to introduce a new metered wholesale rate; and

WHEREAS, by PSC Order No. 7324 (Dec. 4, 2007), the Commission referred the application to a Hearing Examiner to conduct appropriate hearings and provide his report with proposed findings and recommendations; and

WHEREAS, the Hearing Examiner has now filed his report with proposed findings and recommendations, which, for the most part, recommend that the Commission approve a Settlement Agreement executed by the parties; and

WHEREAS, no party in this proceeding has filed exceptions to the Hearing Examiner's proposed findings and recommendations; and

WHEREAS, the Commission, after considering the Hearing Examiner's Report at its meeting on May 20, 2008, has determined that it should adopt his findings and recommendations, and should accept and endorse the Settlement Agreement; now, therefore, by at least a majority of the members of the Commission,

IT IS ORDERED:

1. That the Findings and Recommendations contained in the Report of the Hearing Examiner, dated April 29, 2008, are hereby adopted by the Commission. A copy of the Report with those findings and recommendations is attached to the original hereof as Exhibit "A."

2. That, for the reasons set forth in the Hearing Examiner's Report, the Settlement Agreement proposed by the Broadkiln Beach Water Company, the Division of Public Advocate, and the Commission Staff is found to be in the public interest. Such Settlement Agreement is approved under 26 Del. C. § 512. A copy of the Settlement Agreement is attached to the Hearing Examiner's Report as Exhibit "1."

3. That, consistent with the Settlement Agreement, the following adjustments to the annual water service rate of the Broadkiln Beach Water Company are found to be just and reasonable, are hereby approved, and shall become effective on the dates indicated:

- (a) \$295 for annual water service for the billing year that begins July 1, 2008; and
- (b) \$325 for annual water service for the billing year that begins July 1, 2009 and for years thereafter.

4. That, consistent with the Settlement Agreement, the bulk metered water rate of \$1.50 per thousand gallons to be applied to wholesale sales of water made by the Broadkiln Beach Water Company to the Prime Hook Water Company is found just and reasonable, and is hereby approved, subject to the condition set forth below. Such rate shall become effective on the date the final tariff sheets are submitted. Further, two years after the initial wholesale sale of water to the Prime Hook Water Company, Broadkiln Beach Water Company shall file a report

with the Commission recounting the amount of such sales since such initial sale, the revenues received from such sales, the costs associated with such sales, and any proposed revision to the wholesale rate approved herein.

5. That Broadkilyn Beach Water Company shall file with the Commission, and serve on the Division of Public Advocate, a metering feasibility study reporting the projected costs of installing individual customer meters and implementing some form of metered usage rates and service. Such Study shall be filed, and served, on or before July 31, 2008. After review of such study, the Commission will enter such Order as it might deem appropriate related to the introduction of meters on the Broadkilyn Beach Water Company system;

6. That Broadkilyn Beach Water Company shall forthwith file final tariff sheets to implement the rate approvals in this Order.

7. That the Commission reserves the jurisdiction and authority to enter such other or further Orders in these matters as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

PSC Docket No. 07-296, Order No. 7390 Cont'd.

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

E X H I B I T "A"

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
BROADKILN BEACH WATER COMPANY FOR AN) PSC DOCKET NO. 07-296
INCREASE IN WATER RATES)
(FILED OCTOBER 26, 2007))

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Gary A. Myers, having been appointed Hearing Examiner in this Docket pursuant to 26 Del. C. § 502 by PSC Order No. 7324 (Dec. 4, 2007), reports to the Commission as follows:

A. Introduction and Background

1. The community of Broadkiln Beach lies aside the Delaware Bay in Sussex County. The Broadkiln Beach Water Company ("BBWC" or "the Company") provides public water services to some 480 customers in that community.¹ BBWC's system load is seasonal: during a weekday during the winter months, its pumps might deliver 20 to 25 thousands of gallons; 30 thousands of gallons a day during a Winter weekend.² In contrast, during the Summer season, daily demand moves to 50 to 60 thousands of gallons on a weekday, with even higher daily volumes on weekends. And, on Summer holiday weekends (with good weather) the system's daily demand can reach 100,000 gallons.³ These demand differences reflect not only variances in

¹BBWC is one of three water utilities operated under the umbrella of J. H. Wilkerson & Son, Inc. Hearing Exhibit ("H Exh.") 1 (Application), Exh. E at 1.

²Hearing Transcript ("HTr.") at 47 (Wilkerson). In the Spring, the daily demand numbers might arise to 35 to 40 thousands of gallons. Id.

³HTr. 47-48 (Wilkerson).

water usage patterns associated with differing seasons, but the "seasonal" nature of the Company's largely residential customer base: 25% of its customers are "year-round" residents living in their homes throughout the year; 75% use their Broadkilyn Beach homes only during the warmer Spring and Summer months.⁴

2. BBWC has always used a non-metered, flat rate for its water supply. Since 1999, that rate has been \$235 per year (July 1 - June 30) paid in advance.⁵ In addition, since July, 2003, the Company has also charged a Distribution System Improvement Charge ("DSIC") of \$11.75 per year.⁶

3. In October, 2007, the Company filed to increase its annual "base" rate from \$235 to \$325. The rate change would come in two steps: the annual rate would move to \$290 beginning July 1, 2008, and then increase to the full \$325 for the years after July 1, 2009. With this new base rate increase, the Company's DSIC charge would be reset to zero.

According to the Company, the \$90 rate increase is needed to cover the costs of additional capital improvements made to its system since its last base rate proceeding in 1998 and to reflect increases in its operating expenses.⁷ With such an increase in the base rate, the Company

⁴See HTr. 46, 78 (Wilkerson).

⁵See PSC Order No. 4764 (April 14, 1998).

⁶See 26 Del. C. § 314. See also PSC Order No. 6186 (July 1, 2003). The DSIC was initiated to allow the Company to begin to recover its capital costs for a new 6-inch main from its in-land pumping area to the Beach area distribution system three miles away.

⁷The additional capital outlays were not only for the 6" main from the pumping area to the Beach, but also a larger pump for its wells, and a recently installed automated generation to maintain pumping ability during possible periods of electric outages.

projects a rate of return on its investment within the range of 4.35 to 4.50%.⁸

4. The Company also seeks to implement a new, metered rate of \$1.50 per 1,000 gallons for wholesale sales that BBWC might make to the Prime Hook Water Company ("PHWC"). PHWC is a sibling affiliate to BBWC. Since 2006 the BBWC system has been linked to the northern corporate sibling's system by an interconnecting main.⁹

5. As explained below, the Company, the Division of Public Advocate ("DPA"), and the Commission Staff have offered a Settlement Agreement in this matter. That resolution endorses the base rate increase and the new wholesale rate sought by BBWC, but with several conditions. The Settlement also commits the Company to undertake and file with the Commission another, new metering feasibility study exploring the costs of installing individual meters and moving to a metered rate structure. I recommend the Commission find the proposed Settlement Agreement to be in the public interest. If so, the Commission should then approve the proposed two step rate adjustment and the new wholesale rate while also directing BBWC to submit its metering feasibility study by July 31, 2008.

⁸See H Exh. 1, Exh. G at 4 (pre-filed testimony of D. Campell).

⁹See H Exh. 1, Exh. G at 3 (pre-filed testimony of D. Campbell); Exhibit F, Schedule 3-C. Since its installation, the interconnection has not been utilized. Consequently as of this time, BBWC has not sold or transferred any water to PHWC.

B. Public Comments

6. In response to the notices of the rate application mailed to BBWC's customers,¹⁰ nine customers submitted written comments; all opposed the Company's proposed rate increase.¹¹ Three reported that BBWC's water supply had bacteria problems and tasted bad.¹² All complained that the increase would unfairly exacerbate two perceived "inequities" caused by the Company's use of a flat-rated, non-metered single annual rate. First, the flat-rated annual charge results in "year-round" residents paying the same charge for their water service as those "seasonal" customers who might consume Company water only during the three or four Summer months.¹³ Several customers offered comparisons to show that the Company's proposed (as well as its current) rate is too high. Their

¹⁰See Public Comment Exhibit ("PC Exh.") 1 (affidavit of D. Wilkerson reflecting Company's Dec., 2007 mailing of notices of public comment session and evidentiary hearing to each of its customers).

¹¹See PC Exhs. 2-10. After the March 19, 2008 hearing, and after the record had been formally closed, this Examiner found in the docket materials a letter submitted by John Mitrisin dated December 26, 2007. Mr. Mitrisin is a customer of BBWC. His correspondence opposing the rate increase had not previously been admitted as a public comment exhibit. By this Report, I have re-opened the record and admitted the Mitrisin letter as PC Exh. 10.

¹²See PC Exh. 2 (Staff memorandum reflecting telephone comment by N. Watson); PC Exh. 6 (comment of A. Coney); PC Exh. 10 (comment of J. Mitrisin).

¹³See PC Exh. 2 (record of telephone comment of N. Watson); PC Exh. 3 (comments of S. & B. Copenhaver; increase extremely unfair to residents that are not full-time residents and requesting adjustment for part-time residents); PC Exh. 4 (comment of S. Wastler; inequitable to use flat rate for part-time residents and those with lesser water consumption and appropriate to install meters so people can be held accountable for amount of water they use); PC Exh. 5 (comment of J. Lindsay; as seasonal customer with service to secondary residence, inequitable to bill each customer flat rate); PC Exh. 6 (comment of A. Coney; high rates are not justified on basis of number of days of water usage); PC Exh. 7 (comment of N. & A. Franzo; increase is "astronomical" given that they use Company's water only three months a year); PC Exh. 8 (comment of N. Harding; as owner of secondary property who visits property infrequently and has lower water consumption, flat rate is inequitable); PC Exh. 9 (comment of R. Dukes; as a retiree and a part-time resident, objects to present and proposed rates because flat rate billing is unfair to small homes and seasonal residents); PC Exh. 10 (comment of J. Mitrisin; cost of Company water per gallon for monthly seasonal users is "astronomical").

analyses calculated the cost for water, on a daily or annual basis, for the customer's "primary" residence and compared those charges to the significantly higher per diem or annual rate collected by BBWC for services to a Broadkilm home that might be used for only a few months of the year.¹⁴ In addition, most of the written comments identified a second, but related, "inequity." The annual flat rate structure causes all customers to pay the same rate, without regard to whether a particular customer's home might be small or large, and without accounting for customers' differing water usages (such as clothes washing or landscaping irrigation). To most of the commenting customers, the two inequities will likely only grow more severe as more and more larger homes, to be used (or occupied) year-round, are built in the community. As they see it, the most appropriate way to solve, or at least mitigate, these inequities is for BBWC to install individual customer meters, and move to metered charges linked to usage.¹⁵

7. Three customers appeared at the public comment session held in Milford the night of February 4, 2008. Two spoke. One sought assurances from the Company that its services would be adequately maintained. After receiving such an assurance from Mr. Wilkerson (a primary officer in BBWC), he expressed general support for the Company's application.¹⁶ The second speaker sought explanations from the Company about whether it had

¹⁴See PC Exh. 6 (comment of A. Coney; comparing calculated New Castle County per diem water cost of \$1.33 with per diem charge (based on 88 days occupancy) of \$3.94 for BBWC); PC Exh. 9 (comment of R. Dukes; comparing Wilmington's annual water charges of \$200 with higher BBWC annual rate for water used only during two months); PC Exh. 10 (comment of J. Mitrison; comparing BBWC's cost per year for a 30-day residency as equal to yearly rate for water services for a full-time residence in Maryland).

¹⁵See PC Exhs. 2, 4, 5, 8, & 9.

¹⁶See Public Comment Transcript ("PCTr.") at 17-19 (W. Hammond).

considered installing meters, the need for the newly installed automated generation, and the details about a recent "water quality" warning issued to customers by the Company.¹⁷

8. Later, during the March 19th evidentiary hearing, a BBWC customer - a member of the community's homeowners' association - also spoke. He confirmed that the ratio of seasonal to full-time residents was 75/25 per cent. He also again highlighted the concern that as the flat rate annual charge increases any balance between year-round, full-time customers and their part-time, seasonal counterparts only becomes more skewed. He argued for a move towards installing meters and the introduction of a rate structure that would charge each customer an equitable share of infrastructure costs (spread over the entire customer base), coupled with a metered, "per gallon" usage charge. Under such a scheme, he said, those who indeed use the most water would get a bump up in their billings.¹⁸

¹⁷See PTr. at 19-22 (A. Lister). For a description of the water quality problem see ¶ 12 below.

¹⁸See HTr. at 38-39, 76-81 (R. Conte). Mr. Conte also inquired about the absence of public fire protection on the BBWC system. At the evidentiary hearing, a Mr. Baker also spoke. He is not a customer of BBWC, but is a customer of the affiliated PHWC. He questioned whether the new wholesale rate to be charged for BBWC's water sales to PHWC would result, or portend, a retail rate increase for customers of the Prime Hook system. In response, Mr. David Wilkerson, an officer in both companies, responded that there are not any current plans to increase the \$185 annual rate charged by the PHWC system. See HTr. 71. Mr. Baker also questioned the lack of any back-up generator for Prime Hook, the absence of fire protection service in both water systems, and the quality and treatment of the water supply. He thought his Prime Hook water charges excessive in comparison to his "home" water charges from United Water Delaware Inc., but he also cautioned against incurring significant additional costs to install metering. He suggested that other less expensive alternatives - such as tax records - could be used as a means for differentiating (for rate-making purposes) between part-time "seasonal" customers versus "full-time residents." HTr. 72-76 (M. Baker).

C. Summary of the Evidence

9. By the time of the duly-noticed evidentiary hearing on March 19, 2008,¹⁹ the three parties - the Company, the Commission Staff, and the DPA had reached a settlement related to the rate increase application. See H Exh. 3 (Proposed Settlement Agreement). In broad terms, under the Settlement, the parties: (1) endorse the Company's proposed two-step annual rate increase, as being supported by the Company's increased revenue requirements; (2) endorse the new wholesale \$1.50 per thousand gallons charge but with renewed scrutiny two years after the first sale to PHWC; and (3) endorse BBWC promptly filing another metering feasibility study examining the costs of installing meters and introducing a metered rate structure. See H Exh. 3 at pp. 3-4. See also HTr. 63-67 (V. Ikwuagwu, Staff) (explaining Settlement's terms).

10. The portion of the Settlement related to rates reflects, in part, Staff's - and the DPA's - investigation of the cost justifications offered by the Company. In its original application - supported by the pre-filed testimony of its accountant - the Company proposed an adjusted rate base of \$819,470 and adjusted operating expenses of \$104,484, resulting in an additional needed revenue requirement of \$46,021.²⁰ Under

¹⁹BBWC had provided its customers notice of the March 19, 2008 evidentiary hearing as part of its combined mailing done in December, 2007. That mailing included notices of both the "public comment" session and the later evidentiary hearing. See PC Exh. 1 (affidavit of D. Wilkerson).

²⁰See H Exh. 1, Exh. F, Schedules 2 and 3-D. In its application, the Company chose a test year of July 1, 2006 through June 30, 2007. However, it made post-test year adjustments to the test-year rate base to recognize its investment in automated generation equipment placed in service in August, 2007. In addition, the test year operating expenses were adjusted to reflect changes in salary levels, increased payroll taxes and insurance, inflationary increases, and projected "additional" costs for electricity and chemicals related to the wholesale sales that might be made to PHWC. The adjusted operating expenses also

the Company's calculation, the \$95 per year rate increase would result in the Company achieving a return on its investment of approximately 4.35%.²¹

11. Staff's audit reviewed the Company's accounts, both as to its plant and its operating expenses.²² Staff confirmed a significant increase in rate base investments since the Company's prior 1998 rate case - primarily consisting of \$359,000 for the 2002 6-inch main and \$233,000 for the 2007 automated generation.²³ Staff did highlight two adjustments to be made to those accounts; the first, a slight recalculation of rate base to reflect the retirement of two old generators and the second a change to sixty years for the service life (and hence depreciation level) for the 6-inch main and other assets.²⁴ On the operating expense side, Staff found no reason to contest the Company's test year expenditures or its post-test year adjustments to those expenses.²⁵

12. Staff also explored the details of a November, 2007 incident where two out of five sample tests performed by the Division of Public Health indicated the presence of total coliform bacteria in the Company's

encompass an amortized dollar amount for the expenses of this rate case. H Exh. 1, Exh. G at 2-3 (pre-filed testimony of D. Campbell).

²¹See H Exh. 1, Exh. G at 4 (pre-filed testimony of D. Campbell); HTr. 44 (Campbell statement).

²²See H Exh. 2A at 4-6 (pre-filed testimony of V. Ikwuagwu); HTr. 59-60 (Ikwuagwu).

²³See H Exh. 2A at 4 (pre-filed testimony of V. Ikwuagwu; HTr. 59-60 (Ikwuagwu).

²⁴See H Exh. 2A at 4, 9 (pre-filed testimony of V. Ikwuagwu); HTr. 60-61, 64-65 (Ikwuagwu). The Company accepted these adjustments. The two older generators were retired with the installation of the new automated generation. With the Staff's changes, the "final" adjusted rate base figure for the Company moves to \$817,494. H Exh. 2B, Schedule 2 (Staff revised rate base schedule).

²⁵See H Exh. 2A at 6-8 (pre-filed testimony of V. Ikwuagwu).

water supply. The Company notified its customers and then disinfected its wells. Given that subsequent re-tests performed by the Health authorities a month later were negative for total coliform bacteria, Staff reports that it does not see any "water quality" issue that needs to be addressed in this matter.²⁶

13. Staff also proposed accepting the proposed wholesale charge of \$1.50 per 1,000 gallons for water that might be supplied over the interconnection with PHWC. But given the absence of any actual transfers of supply over the interconnecting main, Staff proposed that the wholesale rate be revisited by both the Company and the Commission two years after any initial wholesale sale to PHWC. The two-year period would likely provide for actual data to become available about the amounts of such sales that would, in turn, allow for a better review of the reasonableness of the wholesale rate.²⁷

14. Staff reported that the issue of the Company installing meters and moving to a metered rate structure is not new. It had been an issue in the Company's 1998 rate proceeding.²⁸ Staff believed that the best way

²⁶See H Exh. 2A at 9-10 (pre-filed testimony of V. Ikwuagwu). The DPA concurred that the past total coliform bacteria problem appears to have been resolved, and suggests that if other water quality issues might surface, customers will likely make their concerns known. See HTr. 69 (Padmore). Mr. Wilkerson, the Company officer, also testified about the earlier total coliform bacteria incident, the Company's responses, and the results of later testing. See HTr. 56-57.

²⁷See H Exh. 2A at 11 (pre-filed testimony of V. Ikwuagwu); HTr. 64 (Ikwuagwu). The 170 customer PHWC system has its own well supply and the interconnection was made to allow for transfers if needed. Since its completion in 2006, no such inter-company water transfers have been made. See HTr. 51-52 (Wilkerson).

²⁸See PSC Order No. 4764 at Ord. ¶ 5 (April 14, 1998) (directing BBWC to file study determining costs of metering by July, 1998); PSC Order No. 4892 (Aug. 25, 1998) (after review of study, finding that it would not be in the "public interest" to order installation of meters "at this time"). The metering issue also surfaced in BBWC's 1982 rate case. PSC Order No. 2407 (Nov. 16, 1982)

to address the issue is to again require the Company to promptly undertake, and submit, a metering feasibility study. Such a study would provide a better view of the exact current costs for installing meters and how such costs would impact customers' rates. With such a study, Staff would also have more data to analyze whether meters, and a metered rate structure, would be more economical for BBWC's customers.²⁹

15. The DPA did not present any testimony at the evidentiary hearing. However, the Public Advocate indicated that his office had reviewed the filing, and that the proposed rate change, when viewed against the system improvements made, seemed to be reasonable. The Advocate also welcomed the new meter feasibility study, noting that until the study provided the needed information, one could not determine whether it is indeed cost effective for a small system such as BBWC to go to the extra expense of installing and reading meters.³⁰

D. Analysis

16. The provisions of 26 Del. C. § 512(a) encourage the Commission to resolve matters before it by stipulation or settlement. For small utilities such as BBWC, settlement has one great advantage - it reduces the rate case expenses that the utility - and its ratepayers - might otherwise have to bear. Here, the task is to determine whether the Commission might conclude that the terms of the parties' Settlement Agreement are "in the public interest." See 26 Del. C. § 512(c).

(declining to order metering because estimated savings would not justify additional costs).

²⁹See H Exh. 2A at 10 (pre-filed testimony of V. Ikwuagwu); HTr. 65-67 (Ikwuagwu). The Company indicates that it will perform the feasibility study in-house by contacting businesses that do meter installation work. See HTr. 69 (D. Wilkerson).

³⁰See HTr. 68 (Padmore).

(a) Rate Increase to \$325 Per Year

17. The Staff and the DPA endorse the Company's proposal for a two-year, two-step increase in its annual rate from the present \$235 to \$325. Indeed, the Settlement proposed here might better be characterized as a "stipulation." After Staff's and the DPA's audits and investigation, they could not find anything - save for two small adjustments - to call into question the Company's cost justifications for its proposed rate increase.³¹ Since 1998 - when the \$235 yearly rate was approved - BBWC has made significant capital investments to replace and upgrade its physical plant.³² At the same time, its small customer base has increased only slightly. And hardly anyone can deny that over the last ten years the Company's operating costs have increased. Of course, no consumer wishes to pay a higher water rate. But the Commission's "public interest" obligation is to balance the customers' interest in receiving adequate water service at low rates with a utility's legitimate need to recover its costs for providing that service. Here, the Company's increased costs - to cover its operating expenses and larger capital costs - are not challenged.³³ Indeed, Staff suggests that even with the full rate increase, the return on capital investment for the Company will be 4.5%, significantly below the 8-10% rate of return authorized for other, larger water utilities regulated by the Commission.³⁴ The increased revenue requirement (premised on a rate base

³¹See HTr. 59-61 (Ikwuagwu); 68 (Padmore).

³²See HTr. 60 (Ikwuagwu).

³³The Settlement recounts that the Company has added \$652,143 of plant since the 1998 rate case and that its operating expenses moved from \$67,121 in the 1998 case to \$104,484 currently. See H Exh. 3 at pg. 2.

³⁴HTr. 61-62 (Ikwuagwu).

of \$817,494) is justified and the resulting increased annual rate (\$325) appears just and reasonable. The Settlement which endorses the rate (and its implementation over two years) can be said to be in the "public interest."

(b) Wholesale Rate for Supply to Prime Hook Water Company

18. The Settlement also endorses the new wholesale rate of \$1.50 per 1,000 gallons of water to be applied to water that might be sold to the affiliated PHWC. But the Settlement also proposes that the rate be reviewed two years after the onset of such sales. By that time, there likely will be actual experience as to the amount of such wholesale sales and any attendant costs. This approach to the new wholesale rate appears to also suit the public interest. As of now, no transfers of water have ever been made, and the record displays uncertainty, about when, and how much, water might be sold to the Prime Hook affiliate. Returning after two years of sales to evaluate this rate in light of historical experience (if any) will serve not only the interests of BBWC (and its ratepayers) but also the customers of the Prime Hook water utility.

(c) Metering Feasibility Study

19. While most of the commenting customers voiced concerns about the dollar amount of the rate increase, their loudest objections were to the Company's single flat rate annual charge and the two "inequities" it creates: year-round customers pay the same as part-time ones and low-consumption users pay the same as higher-use connections. Their call is for metered service - to sort out high from lower users and to track seasonal versus full-time consumption. But some customers also recognized that metering and metered rates come with costs, not only in the front-end costs of retro-fitting meters to an existing system but

also the recurring costs of some sort of periodic "meter readings." The Settlement's response - calling for the Company to submit another, new metering feasibility study for the Staff's and DPA's review - appears to be a prudent renewed first response to the customers' concerns. Indeed, it is consistent with the Commission's prior directions. In PSC Order No. 4892, the Commission indicated that it would revisit the metering issue at such time when the Company files its next rate increase application. This is that time. But, as the Public Advocate said, the real question - as it was in 1998 - remains an economic one, that involves balancing perceived benefits and actual costs. Are the benefits to customers that might flow from a more nuanced, metered rate structure likely to be greater than the additional costs of installing and reading meters on this small system? The feasibility study will provide more and better information to be fed into that analysis.

In light of the above, I recommend:

1. That, for the reasons set forth above, the Commission find that the Settlement Agreement proposed by the Broadkiln Beach Water Company, the Division of the Public Advocate, and the Commission Staff is in the public interest under 26 Del. C. § 512 and that the Commission approve such Settlement Agreement. That Settlement Agreement is attached as Exhibit 1.

2. That, consistent with the Settlement, the Commission:

(a) approve adjustments to the Broadkiln Beach Water Company's annual water service rate in the following two steps:

(i) \$295 for service on and after July 1, 2008; and

- (ii) \$325 for service on and after July 1, 2009;
- (b) approve a bulk metered rate of \$1.50 per 1,000 gallons for wholesale sales of water made by the Broadkiln Beach Water Company to the Prime Hook Water Company;
- (c) direct Broadkiln Beach Water Company to file with the Commission, two years after any initial wholesale sale of water to the Prime Hook Water Company, a report recounting the amount of such wholesale sales since such initial sale, the revenues from such sales, the costs associated with such sales, and any proposed revisions to the utility's bulk wholesale rate;
- (d) direct Broadkiln Beach Water Company, on or before July 31, 2008, to file with the Commission and serve on the Division of Public Advocate a metering feasibility study reporting the projected costs of installing and utilizing individual customer meters on its system; and
- (e) accept the rate base adjustments described in paragraph 3 of the Settlement Agreement as proposed by both Staff and the utility.

Respectfully submitted,

/s/ Gary A. Myers
Gary A. Myers
Hearing Examiner

Dated: April 29, 2008
Appearances:

On Behalf of Broadkiln Beach Water Company

David A. Wilkerson

J.H. Wilkerson & Son, Inc.

William E. Howe & Company
By: Donald J. Campbell, Jr., CPA

On Behalf of the Division of the Public Advocate

G. Arthur Padmore, Esq., Public Advocate

On Behalf of the Staff of the Public Service Commission

Murphy & Landon
by: Francis J. Murphy, Esq.

EXHIBIT "1"

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF BROADKILN BEACH WATER COMPANY) PSC Docket No. 07-296
FOR AN INCREASE IN WATER RATES AND)
OTHER TARIFF CHANGES)
(Filed October 26, 2007))

PROPOSED SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement"), is entered into as of this 19th day of March, 2008, by and among Broadkiln Beach Water Company (a division of J.H. Wilkerson & Son, Inc.) ("Broadkiln" or the "the Company"), the Staff of the Public Service Commission ("Staff"), and the Division of the Public Advocate ("DPA").

WHEREAS, on October 26, 2007, Broadkiln filed an application (the "Application") with the Public Service Commission of the State of Delaware (the "Commission") for a revision to its current water service rates of \$235 (not including the present DSIC of \$11.75) per year for unmetered service to \$325 per year for unmetered service. The proposed increase of \$90 per year is being phased in over two years, and therefore the proposed new rate will be \$290 per year on July 1, 2008, and \$325 per year on July 1, 2009. The DSIC charge will be reset to zero on July 1, 2008; and

WHEREAS, the Company also proposed a new tariff for bulk water sales for resale to Prime Hook Water Company (also a division of J.H. Wilkerson & Son, Inc.) at a proposed rate of \$1.50 per 1,000 gallons metered. The new tariff for bulk water sales for resale from Broadkiln Beach Water Company to Prime Hook Water Company is necessary to adequately provide Prime Hook Water Company with water if the need

arises; and

WHEREAS, the proposed rates are projected to produce an additional \$46,021 in annual revenues, applied to a rate base of \$819,474; and

WHEREAS, since the last rate increase (effective July 1, 1998) the Company has added \$652,143 of utility plant primarily consisting of a 6" water line from the well site to the beach costing \$359,250 and automated generation costing \$233,525. The increased plant of \$652,143 as well as the increased operating expenses of \$37,363 (\$104,484 for this rate case vs. \$67,121 for the last rate case) provide the cost justification for the current proposed rate increase, which is projected to produce a 4.5% rate of return; and

WHEREAS, the Company has responded to various data requests by staff and DPA; and

WHEREAS, a public comment session was held on February 4, 2008 in Milford, Delaware; and

WHEREAS, on February 26, 2008, Staff filed testimony in which it identified certain rate base adjustments which were agreed to by the Company. The revised rate base amounted to \$817,494. In its Testimony Staff recommended that:

(1) The Commission approve the Company's request for an increase in its annual rates of \$90 to be phased in over two years, with an increase from \$235 to \$290 on July 1, 2008 and an increase from \$290 to \$325 on July 1, 2009; (2) that the wholesale rate to Prime Hook be revisited in two years to allow for history on the sale volume; (3) that the depreciation rate utilized by the Company for the test year be allowed and the Company request granted as this appropriately corrects the service life

of most of the plant in service; (4) that the Commission direct the Company to prepare and submit a metering feasibility report to the Staff, no later than July 31, 2008, for evaluation and consideration to address the perceived inequity of flat rates; and

WHEREAS, on February 26, 2008, the DPA filed a petition to intervene in this proceeding, but did not file any Testimony in this matter. The DPA reserved the right to attend the hearings, cross-examine witnesses, serve interrogatories and, if deemed necessary, file briefs and present oral argument directly to the Commission; and

WHEREAS, Broadkiln desires to avoid the substantial cost which would be involved if this case were to proceed to evidentiary hearing; and

WHEREAS, the parties have conferred and believe that settlement of the pending rate proceeding on the terms and conditions contained herein, will serve the interest of the public and the Company, while meeting the statutory requirement that rates be both just and reasonable;

IT IS HEREBY STIPULATED AND AGREED by Broadkiln, Staff, and the DPA that the Parties will submit to the Commission for its approval the following terms and conditions for resolution of this rate proceeding:

1. An increase in annual rates of \$90 to be phased in over two years, with an increase from \$235 to \$290 on July 1, 2008 and an increase from \$290 to \$325 on July 1, 2009. The proposed increase includes the current DSIC charge of \$11.75, which is being rolled over into the new rates. Therefore, the current DSIC charge of \$11.75 will be reset to zero on July 1, 2008, when the first phase of the new rates goes into effect. The above changes will be made to the Company's tariff.

2. A new tariff for bulk water sales for resale to Prime Hook Water

Company at a rate of \$1.50 per 1,000 gallons metered. The above changes will be made to the Company's tariff.

3. The Company's request to use a depreciable life of 60 years for the 6" water line placed in service on December 19, 2002 as opposed to the 33 years used in the DSIC application filed for 2002 be allowed. The Company's request to correct the service lives of various other plant assets as presented in the application be allowed.

4. The Company will calculate the rate of return on the wholesale rate to Prime Hook two years after the initial sale from Broadkilm to Prime Hook.

5. The Company will prepare and submit a metering feasibility report to the Staff, no later than July 31, 2008.

6. This settlement is the product of negotiation, and reflects a mutual balancing of various issues and positions. A condition of this Settlement Agreement is that it be approved by the Commission in its entirety without modifications or conditions. If this Settlement is not approved in its entirety, this agreement shall become null and void.

7. This Settlement shall not set a precedent, shall not have issue or claim preclusion effect in any future proceeding, and no party shall be prohibited from arguing a different policy or position before the Commission in any future proceeding. The purpose of this Settlement is to provide just and reasonable rates for the customers of Broadkilm. In addition, the Parties believe that the Settlement is in the public interest because, among other things, it avoids the additional cost of litigation.

8. The terms of this Settlement will remain in effect until changed by an order of the Commission or until mutually agreed by the Parties. The Commission

retains jurisdiction over this agreement and all statutory procedures and remedies otherwise available to the Parties to ensure that rates are just and reasonable, while providing a fair rate of return, including without limitation 26 Del. C. § 304 and 309-311.

9. This Proposed Settlement Agreement may be executed in counterparts by any of the signatories hereto and transmission of an original signature by facsimile or email shall constitute valid execution of this Agreement. Copies of this Proposed Settlement Agreement executed in counterpart shall constitute one agreement. Each signatory executing this Proposed Settlement Agreement warrants and represents that he or she has been duly authorized and empowered to execute this Proposed Settlement Agreement on behalf of the respective party.

DELAWARE PUBLIC SERVICE COMMISSION –
STAFF

Date: March 19, 2008

/s/ William C. Schaffer

DIVISION OF THE PUBLIC ADVOCATE

Date: March 19, 2008

/s/ G. Arthur Padmore

BROADKILN BEACH WATER COMPANY
(a Division of J.H. Wilkerson & Son, Inc.)

Date: March 19, 2008

/s/ David A. Wilkerson

David A. Wilkerson
Vice President