

NEW YORK CITY WATER BOARD

March 4, 2005

RESOLUTION

WHEREAS, on July 1, 2002, the Water Board's ("Board") Fiscal Year 2003 Rate Schedule became effective and provided that customer complaints must be filed within four years of the date of the water and wastewater bill that is the subject of the complaint, and such provision continues to this day; and

WHEREAS, in July and August 2003, a customer known as Bethco Corporation filed a complaint with the Board, and the Board issued a final determination that denied this complaint because it was not filed within the four year complaint filing period; and

WHEREAS, Bethco Corporation then challenged this Board final determination in the New York Supreme Court, Queens County, Index Number 11005/2004, arguing that the Board should apply a six year limitation period to bills issued before July 1, 1999, and in December 2004 the Court ruled that it was within the Board's authority to apply the four year limitation period to customer complaints filed after July 1, 2002; and

WHEREAS, the Court also ruled that constitutional due process requirements mandated that the Board provide a reasonable grace period for customers to file complaints if those complaints were immediately time barred by the new four year limitation period, and that the question of what constituted a reasonable grace period was best determined, in the first instance, by the Board; and

WHEREAS, in response to this Court ruling, the Board has considered a variety of factors, some of which are discussed below; and

WHEREAS, effective October 23, 2001, by chapter 467 of the Laws of 2001, the New York State Legislature amended Public Authorities Law § 1045-g(4) to provide that the limitations on customer complaints could not be less than four years; and

WHEREAS, after this amendment became law, the Board immediately applied the four year limitation period to all customer complaints, and it was made public that a four year limitation period was being applied by the Board; and

WHEREAS, on March 28, 2002, the Board proposed a new Rate Schedule that included a codification of this four year complaint filing limitation period, published such notice in newspapers of general circulation in the City, and in April 2002 held public hearings on the proposed Rate Schedule; and

WHEREAS, on May 3, 2002, the proposed Rate Schedule was adopted by the Board at its meeting, and on May 31, 2002 notice of the adoption of the Board's FY2003 Rate Schedule (which included the four year complaint filing limitation period) was published in The New York Times, The New York Post, The Staten Island Advance and in El Diario and the Amsterdam News on June 4 and June 6, 2002 respectively; now, therefore, it is hereby

RESOLVED, that since the Board in the Fall of 2001 immediately implemented the four year limitation period and it was made public that this four year limitation period applied, and the Board on May 3, 2002 codified the four year limitation period when it adopted the proposed Rate Schedule that became effective on July 1, 2002, the Water Board determines that the reasonable time to have submitted complaints based on bills issued more than four years before the complaint is submitted is extended to September 30, 2002.