

COMMONWEALTH OF PENNSYLVANIA



RECEIVED

2018 FEB 16 PM 4:08
OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5000
800-684-6560

SECRETARY'S BUREAU
FRONT DESK

FAX (717) 783-7152
consumer@paoca.org

February 16, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Joint Application of Aqua Pa. and the Borough of Phoenixville for approval of 1) the acquisition by Aqua of the water system assets of Phoenixville used in connection with water service provided by Phoenixville in East Pikeland and Schuylkill Townships, Chester County, and in Upper Providence Township, Montgomery County, PA; and 2) the right of Aqua to begin to supply water service to the public in portions of East Pikeland Township, Chester County, and Upper Providence Township, Montgomery County, PA and 3) the abandonment by Phoenixville of public water service in East Pikeland Township, Chester County, and in Upper Providence Township, Montgomery County, and to certain locations in Schuylkill Township, Chester County, PA

Docket Nos. A-2018-2642837 and
A-2018-2642837

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Protest and Petition For Leave to Late File A Protest in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

cc: Bureau of Technical Services (e-mail only)
Office of Special Assistants
Certificate of Service
*244439

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

2018 FEB 16 PM 4:03

PA PUC
SECRETARY'S BUREAU
FRONT DESK

Joint Application of Aqua Pa. and the
Borough of Phoenixville for approval of 1) the
acquisition by Aqua of the water system assets
of Phoenixville used in connection with water
service provided by Phoenixville in East
Pikeland and Schuylkill Townships, Chester
County, and in Upper Providence Township,
Montgomery County, PA; and 2) the right of
Aqua to begin to supply water service to the
public in portions of East Pikeland Township,
Chester County, and Upper Providence
Township, Montgomery County, PA and 3)
the abandonment by Phoenixville of public
water service in East Pikeland Township,
Chester County, and in Upper Providence
Township, Montgomery County, and to
certain locations in Schuylkill Township,
Chester County, PA

Docket Nos. A-2018-2642837 and
A-2018-2642839

PETITION FOR LEAVE TO LATE FILE A PROTEST

Pursuant to 52 Pa. Code § 5.43, the Office of Consumer Advocate (OCA) respectfully requests a waiver of the Commission's requirements at 52 Pa. Code § 5.53 regarding the time of filing for protests.

1. On January 16, 2018, Aqua Pennsylvania, Inc. (Aqua) and the Borough of Phoenixville (Phoenixville) filed a Joint Application with the Public Utility Commission (Commission) for approval of the acquisition by Aqua of the water system assets of Phoenixville in East Pikeland and Schuylkill Townships, Chester County and in Upper Providence Township,

Montgomery County and the right of Aqua to serve and Phoenixville to abandon public water service in those areas.

2. On January 27, 2018, Notice of the filing was published in the Pennsylvania Bulletin with a due date for protests and petitions to intervene of February 12, 2018.

3. On February 12, 2018, the Bureau of Technical Utility Services (TUS) served discovery on Aqua , raising questions *inter alia* regarding a 10-year Water Supply Agreement between Phoenixville and Aqua. The Water Supply Agreement is attached to the Application as Exhibit G1 and the Application asks the Commission to approve this contract pursuant to 66 Pa. C.S. § 507.

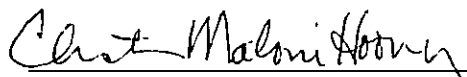
4. Also on February 12, 2018, Pennsylvania-American Water Company (PAWC) filed a Protest, wherein it raised concerns regarding the Water Supply Agreement, which contains a partial assignment of rights and obligations under a 1986 Water Supply Agreement between Phoenixville and Citizen Utilities Home Water Company (Citizens). PAWC is the successor in rights and obligations of Citizens. PAWC also raised questions whether the service territory at issue overlaps with PAWC's existing certificated territory and whether some of the assets proposed to be acquired may be owned by PAWC rather than Phoenixville.

4. By this Petition, the OCA seeks leave to file its Protest on February 16, 4 days late. The OCA submits that the 4-day period by which this protest is late is not prejudicial to any party. As a Protest has already been filed by another party (PAWC), the matter will be assigned to the Office of Administrative Law Judge. Thus, the OCA's Protest will not affect the procedural posture of the case. To date, no procedural schedule has been determined.

5. As noted in the attached Protest, the OCA protests the granting of the Application at this time because TUS and PAWC have raised issues that bear on the reasonableness of the proposed transaction and, specifically, the impact of the proposed transaction on the service and rates of the customers proposed to be acquired by Aqua and PAWC's existing customers. The record should be developed on these issues to allow the Commission to determine whether the transaction is in the public interest.

WHEREFORE, the Office of Consumer Advocate respectfully requests leave to file the attached Protest.

Respectfully submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
Pa. Attorney No. 50026
CHoover@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
Pa. Attorney No. 83487
EGannon@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut St., 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

Dated: February 16, 2018
244423

RECEIVED
2018 FEB 16 PM 4:09
PA PUC
SECRETARY'S BUREAU
FRONT DESK

CERTIFICATE OF SERVICE

Re: Joint Application of Aqua Pa. and the Borough of Phoenixville for approval of 1) the acquisition by Aqua of the water system assets of Phoenixville used in connection with water service provided by Phoenixville in East Pikeland and Schuylkill Townships, Chester County, and in Upper Providence Township, Montgomery County, PA; and 2) the right of Aqua to begin to supply water service to the public in portions of East Pikeland Township, Chester County, and Upper Providence Township, Montgomery County, PA and 3) the abandonment by Phoenixville of public water service in East Pikeland Township, Chester County, and in Upper Providence Township, Montgomery County, and to certain locations in Schuylkill Township, Chester County, PA
Docket Nos: A-2018-2642837 and A-2018-2642839

I hereby certify that I have this day served a true copy of the following document, the Protest of the Office of Consumer Advocate and Petition for Leave to Late File a Protest, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 16th day of February 2018.

SERVICE BY INTER-OFFICE

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Thomas T. Niesen, Esquire
Thomas, Niesen, & Thomas, LLC
212 Locust Street
Suite 302
Harrisburg, PA 17101

Adeolu A. Bakare, Esquire
McNees, Wallace, & Nurick, LLC
100 Pine Street
Harrisburg, PA 17101

Office of Small Business Advocate
Commerce Building
Suite 1102
300 North Second Street
Harrisburg, PA 17101

/s/ Christine M. Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org
*244440

Counsel for Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

RECEIVED
2018 FEB 16 PM 4: 08
PA PUC
SECRETARY'S BUREAU
FRONT DESK