

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Aqua Pennsylvania Wastewater, Inc. Under Sections 1102, 1329 and 507 of the Pennsylvania Public Utility Code for Approval of the Acquisition of East Norriton Township's Wastewater System Assets

A-2019-3009052

PREHEARING MEMORANDUM OF EAST NORRITON TOWNSHIP

East Norriton Township ("East Norriton"), by and through its attorneys, Obermayer Rebmann Maxwell & Hippel LLP, submits this prehearing memorandum pursuant to the Prehearing Conference Order in advance of the December 30, 2019 Prehearing Conference in this matter.

I. Background

This proceeding concerns the July 30, 2019 application of Aqua Pennsylvania Wastewater, Inc. ("Aqua") for approval to acquire the wastewater system assets of East Norriton pursuant to Sections 1102, 1329 and 507 of the Pennsylvania Public Utility Code.

By Secretarial Letter dated October 23, 2019, the Commission, *inter alia*, conditionally accepted the application. By Secretarial Letter dated November 26, 2019, the Commission, *inter alia*, accepted the application for filing.

Administrative Law Judge Angela T. Jones was assigned to preside over the proceeding. An Initial Prehearing Conference has been noticed for December 30, 2019. Judge Jones issued the Prehearing Conference Order on December 4, 2019, which requires the parties to file and serve their prehearing memoranda by 12:00 PM on December 27, 2019.

On December 9, 2019, East Norriton submitted a Petition to Intervene in this matter, and consequently submits this prehearing memorandum.

II. Issues

A. Approval of Application

Issue: Should the Pennsylvania Public Utility Commission approve Aqua's application to (i) acquire the wastewater system assets of East Norriton and (ii) begin to offer, render, furnish and supply wastewater service to the public in East Norriton?

East Norriton's Position: The Commission should issue a Certificate of Public Convenience approving the acquisition because Aqua's acquisition of East Norriton's wastewater system assets is necessary or proper for the service, accommodation, convenience or safety of the public.

1. East Norriton currently provides wastewater service to approximately 5,000 customers within its service area. The Commission has a longstanding policy in favor of consolidation and regionalization of small, local water and wastewater systems in order to allow the industry to institute better management practices and achieve greater economies of scale. This acquisition will permit East Norriton to take advantage of Aqua's expertise in operating wastewater utility systems and regulatory compliance.
2. Aqua is a viable operator of East Norriton's wastewater system, its viability will not be impaired by the acquisition, and it maintains the managerial, technical, and financial capabilities to safely and adequately operate the Township's system in compliance with 66 Pa.C.S. (relating to the Public Utility Code), the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1--721.17) and other requisite regulatory requirements.
3. After receiving extensive input from the public, the democratically-elected officials of East Norriton determined that the sale of its wastewater system is in

the best interest of the residents of East Norriton, and they therefore agreed to the sale to Aqua pursuant to a heavily negotiated Asset Purchase Agreement.

4. Aqua is a regulated public utility that furnishes water and wastewater to the public in various counties throughout Pennsylvania, and it has the experience necessary to demonstrate that it is able to operate wastewater collection systems in a safe, reliable and efficient manner.
5. Pursuant to the Asset Purchase Agreement, the acquisition will not have any immediate impact on the rates of the East Norriton customers.

B. Ratemaking Rate Base

Issue: Pursuant to Section 1329 of the Public Utility Code, what is the ratemaking rate base of the wastewater system assets of the Township?

East Norriton's Position: Under Section 1329 of the Public Utility Code, the ratemaking rate base of the wastewater system assets is set based on the lower of the purchase price or the average of two fair market value appraisals. The ratemaking rate base determined pursuant to Section 1329(c)(2) of the Public Utility Code is \$21,000,000, being the lesser of the purchase price of \$21,000,000 negotiated by Aqua and the Township and the average of the fair market value appraisals, \$24,674,297 — the average of \$25,064,594 valuation presented in the appraisal of AUS Consultants, Inc. and the \$24,284,000 valuation presented in the appraisal of Gannett Fleming Valuation and Rate Consultants, LLC.

C. Validity of Contracts

Issue: Pursuant to Section 507 of the Public Utility Code, are the contracts, including assignments of contracts, between Aqua and East Norriton valid?

East Norriton's Position: The contracts, including assignment of contracts between Aqua and East Norriton are valid under Section 507 of the Public Utility Code.

III. Witnesses

East Norriton does not presently anticipate calling any witnesses. East Norriton witnesses Robert R. Hart, Township Manager, and Jerome C. Weinert of AUS, the Township's Utility Valuation Expert, provided direct testimony with the Application as Exhibits W and X. East Norriton reserves its right to call witnesses, if necessary, and agrees to notify Administrative Law Judge Jones and the parties promptly should East Norriton determine that any witnesses will be called.

IV. Litigation Schedule

East Norriton is willing to work with the administrative law judge and the parties to develop an agreed upon litigation schedule.

V. Settlement

East Norriton is willing to address settlement of all or part of the proceeding with the other parties.

VI. Discovery

East Norriton has no objection to the modifications to the discovery rules presented in the Prehearing Conference Order.

VII. Protective Order

East Norriton has no objection to the proposed Protective Order submitted by Aqua.

Respectfully submitted,

/s/ Thomas Wyatt

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Dated: December 26, 2019

Counsel for East Norriton Township

CERTIFICATE OF SERVICE

I, Thomas Wyatt, Esq., hereby certify that I have served a true and correct copy of the foregoing Prehearing Memorandum of East Norriton Township upon the parties list below in accordance with the requirements of 52 Pa. Code §§ 1.54 (relating to service by a party) via electronic mail and first class mail.

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Dated: December 26, 2019

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