

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oca

 /pennoca

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

February 6, 2020

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

Re: Application of Aqua Pennsylvania
Wastewater, Inc. Pursuant to Sections
1102, 1329 and 507 of the Public Utility
Code for Approval of its Acquisition of
Wastewater System Assets of East Norriton
Township
Docket No. A-2019-3009052

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Statement in Support of Settlement in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Erin L. Gannon".

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

Enclosures:

cc: Honorable Angela T. Jones, ALJ
Certificate of Service

*283508

CERTIFICATE OF SERVICE

Re: Application of Aqua Pennsylvania :
Wastewater, Inc. Pursuant to Sections 1102, :
1329 and 507 of the Public Utility Code for : Docket No. A-2019-3009052
Approval of its Acquisition of Wastewater :
System Assets of East Norriton Township :

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate's Statement in Support of Settlement, 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 6th day of February 2020.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Gina L. Miller, Esquire
Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Erin K. Fure, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

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

Alexander R. Stahl, Esquire
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Thomas Wyatt, Esquire
Matthew S. Olesh, Esquire
Obermayer Rebmann Maxwell & Hippel LLP
Centre Square West
1500 Market Street
Suite 3400
Philadelphia, PA 19102

Joel P. Trigiani, Esquire
Cleary, Josem & Trigiani, LLP
325 Chestnut Street
Suite 200
Philadelphia, PA 19106



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

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

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
Dated: February 6, 2020
*283509

Santo G. Spataro
Assistant Consumer Advocate
PA Attorney I.D. # 327494
E-Mail: SSpataro@paoca.org

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

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Aqua Pennsylvania :
Wastewater, Inc. Pursuant to Sections 1102, :
1329 and 507 of the Public Utility Code for : Docket No. A-2019-3009052
Approval of its Acquisition of Wastewater :
System Assets of East Norriton Township :

OCA STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL OF SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Approval of Settlement (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission).

I. INTRODUCTION

On July 30, 2019, Aqua Pennsylvania Wastewater, Inc. (Aqua or Company) filed an Application pursuant to Sections 1102, 1329, and 507 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of East Norriton Township (East Norriton or Township). The Bureau of Technical Utility Services (TUS), the Bureau of Investigation and Enforcement (I&E), the OCA and the Office of Small Business Advocate (OSBA) were served with copies of the Application on July 30, 2019. Thereafter, the Company filed and served supplemental information on August 9, 2019, October 21, 2019 and October 23, 2019 in response to information requests from TUS.

By Secretarial Letter dated October 23, 2019, the Commission conditionally accepted the

Application with a condition requiring individual notice to be provided to Aqua's existing water and wastewater customers and requiring Aqua to ensure that concurrent notice was provided to all current East Norriton Township customers, along with newspaper notice in the East Norriton Township area. On November 26, 2019, Aqua filed a verification that the required notice was provided.

On October 25, 2019, I&E filed a Notice of Appearance. On September 6, 2019, the OSBA filed a Notice of Intervention and Public Statement. On September 11, 2019, the OCA filed a Protest and Public Statement. On December 2, 2019, Mr. Stanley Mansell filed a Protest.¹ Mrs. Christine Maddalo and Mr. Michael Maddalo filed a Protest on December 2, 2019. Mr. Allen Dalton filed a Protest on December 9, 2019. On December 9, 2019, East Norriton Township filed a Petition to Intervene.

A prehearing conference was held on December 30, 2019 before Administrative Law Judge Angela T. Jones, at which time a litigation schedule was adopted and the Township's Petition to Intervene was granted. The OCA and other parties submitted written testimony in accordance with the litigation schedule.²

On January 10, 2020, the Laborers District Council of the Metropolitan Philadelphia Area and Vicinity filed a Petition to Intervene, which was subsequently granted by Interim Order issued on January 16, 2020. On January 13, 2020, a Smart Public Input Hearing was held in Harrisburg before Judge Jones. Five consumers and a representative of the Laborers District Council provided sworn testimony.

On January 23, 2020, Aqua advised Judge Jones that Aqua, I&E, OCA, OSBA and East

¹ Mr. Mansell subsequently requested that the Commission withdraw his Protest on December 12, 2019. ALJ Jones granted his request by Initial Decision issued January 16, 2020 but directed that Mr. Mansell remain on the service list for the purpose of receiving Commission notices, orders and decisions.

² Specifically, the OCA served written testimony prepared by its witnesses David J. Garrett and Glenn A. Watkins on January 3, 2020 (Direct) and January 17, 2020 (Surrebuttal).

Norriton had achieved an agreement in principle to settle all issues.³ In light of this, the evidentiary hearing scheduled for January 24, 2020, was changed to a telephonic hearing, during which, the parties' written testimony and exhibits were admitted into the evidentiary record.

II. TERMS AND CONDITIONS OF JOINT PETITION FOR SETTLEMENT

The terms of the proposed Settlement address matters raised by the OCA in its testimony, including the ratemaking rate base to be incorporated into the acquiring utility's revenue requirement, the rate impact for existing Aqua customers and the acquired customers, the agreed upon adjustments to the appraisals, the application of the Distribution System Improvement Charge (DSIC), outreach to low income customers, and post-acquisition improvement, transaction and closing costs, as follows:

1. Ratemaking Rate Base, Settlement ¶F.

As part of this proceeding, Aqua sought to establish the ratemaking rate base for this acquisition pursuant to Section 1329 of the Public Utility Code, 66 Pa. C.S. § 1329. Based on appraisals presented by Aqua and East Norriton Township (\$24,284,000 and \$25,064,594, respectively), Aqua sought a ratemaking rate base of \$21,000,000, which was the price Aqua agreed to pay for the East Norriton collection system. The OCA's recommended adjustments to the appraisals resulted in an average appraisal amount of \$19,900,000. OCA St. 1 at 10. The parties have agreed in the Settlement that the ratemaking rate base should be \$20,750,000. Settlement ¶F. This number represents a compromise of the parties' positions and, in the OCA's judgement, represents a result that is within the range of likely outcomes if the case were fully litigated. This provides some mitigation of the rate impact of the transaction for existing Aqua customers and the acquired Township customers by reducing overall costs.

³ Laborers District Council is not a party to the Joint Petition, but does not oppose the Joint Petition. Settlement at 1, n.2.

2. Cost of Service Study and Rates, Settlement ¶C.

In this proceeding, the OCA identified the need for a separate cost of service study for the East Norriton Township system in the first base rate case in which Aqua includes the Township assets in rate base. OCA St. 1 at 20. A separate cost of service study will provide information to establish rates that reflect the costs for that system. Id.

The settlement addresses this issue. Paragraphs C(1) and C(2) provide that, in its first base rate case following closing, in which Aqua includes the Township assets in rate base, Aqua will submit a wastewater cost of service study that removes all costs and revenues associated with the East Norriton system. The Company will also provide a separate cost of service study for the East Norriton Township system. These settlement terms will provide a means for the parties to use the cost of service data to set rates for the East Norriton customers that differ, as appropriate, from rates established for other wastewater customers.

3. Distribution System Improvement Charge, Settlement ¶E.

The parties to the proposed Settlement agreed that Aqua may apply the DSIC to customers in the East Norriton Township service area prior to the first base rate case in which the system's plant in service is incorporated into rate base pursuant to Section 1329(d)(4) if certain conditions are met. In particular, Paragraph E states that Aqua will revise its Long Term Infrastructure Improvement Plan (LTIIIP) to include East Norriton Township and related projects before it begins charging the DSIC to those customers. Aqua agrees that the projects for East Norriton Township customers are in addition to the projects already included in its approved LTIIIP. This settlement term allows for East Norriton customers to begin contributing, up to 5% of their total wastewater bill, toward DSIC-eligible capital projects.

Paragraph E also provides that, if Aqua seeks to modify its LTIIP to include the East Norriton system, Aqua will not reprioritize other existing capital improvements that the Company already committed to undertake in other service areas. These terms help to ensure that projects and expenditures already planned for existing Aqua wastewater customers will not be given less priority as a result of the East Norriton acquisition.

4. Appraisal Adjustments, Settlement ¶G.

The OCA's witness, David Garrett, challenged the average service lives utilized by the Aqua and Township Utility Valuation Experts to determine the amount of accrued depreciation for certain plant accounts. OCA St. 1 at 25, 27; OCA St. 1S at 3-8. As a term of the Settlement, the parties agree that, consistent with the Commission's Order in the Cheltenham acquisition case (Docket No. A-2019-3008491), the service lives applicable to East Norriton's gravity mains and manholes is established at a maximum of 75 years. This adjustment reflects accepted financial and ratemaking principles and helps to improve the reliability of data used in appraisals and the integrity of the result. Paragraph G also preserves the OCA's right to present adjustments and oppose other methodologies, inputs and assumptions in appraisals in future cases and proceedings.

5. Low Income Program Outreach, Settlement ¶J.

Aqua has agreed to provide information about Aqua's low income programs in a welcome letter to the East Norriton Township system customers, within 20 days following the closing of the transaction. The information will describe the available programs, eligibility requirements and contact information for Aqua. The OCA submits that this provision is reasonable and will provide timely information that may be helpful to some of the East Norriton customers.

6. Allowance for Funds Used During Construction (AFUDC), Deferral of Depreciation, Transaction Costs, and Legal Fees, Settlement ¶¶D and M.

The Joint Petitioners reserve their rights to litigate future claims for AFUDC and deferral of depreciation on post-acquisition projects pursuant to Section 1329(f) and transaction costs in future rate cases. The OCA's assent to Paragraph D should not be construed to operate as preapproval of Aqua's future requests. Paragraph D preserves all parties' positions in future rate cases, including the ability to challenge the reasonableness and prudence of the Company's claims. Further, to facilitate the parties' review in Aqua's next base rate case, Paragraph M reflects Aqua's agreement to separately identify any legal fees included in its transaction and closing costs pursuant to the Asset Purchase Agreement between Aqua and East Norriton Township and specify amounts expended by Aqua on behalf of East Norriton.

III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement should be approved.

Respectfully Submitted,



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

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. #320580
E-Mail: HBreitman@paoca.org

Santo G. Spataro
Assistant Consumer Advocate
PA Attorney I.D. #327494
E-Mail: SSpataro@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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

Dated: February 6, 2020

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