



COMMONWEALTH OF PENNSYLVANIA

February 18, 2020

E-FILED

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 the Wastewater System Assets of the Township of East Norriton/ Docket No. A-2019-3009052

Dear Secretary Chiavetta:

Enclosed please find the Statement in Support of the Joint Petition for Approval of Settlement, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'EK Fure'.

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**STATEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE JOINT PETITION FOR APPROVAL OF SETTLEMENT**

I. INTRODUCTION

The Small Business Advocate is authorized and directed to represent the interests of small business consumers in proceedings before the Pennsylvania Public Utility Commission (“Commission”) under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. In order to discharge this statutory duty, the Office of Small Business Advocate (“OSBA”) is participating as a party to this proceeding to ensure that the interests of small commercial and industrial (“Small C&I”) customers of Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”) and East Norriton Township (“East Norriton”) are adequately represented and protected.

II. PROCEDURAL BACKGROUND

Aqua filed an Application (“Application”) pursuant to Sections 1102, 1329, and 507 of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. §§1102(a), 1329, 507 on July 30, 2019. In its Application, Aqua requested approval of the acquisition of the wastewater system assets of East Norriton. The Commission extended the initial review period of the Application multiple times, and the Application was conditionally accepted by the Commission on October 23, 2019.

On September 6, 2019, the OSBA filed a Notice of Appearance, Notice of Intervention, and Public Statement.

On September 11, 2019, the Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement.

The Commission’s Bureau of Investigation and Enforcement (“I&E”) filed its Notices of Appearance on October 25, 2019.

On November 26, 2019, the Commission issued a Secretarial Letter accepting Aqua’s Application for filing.

A Protest was filed by Mr. Stanley Mansell on December 2, 2019. A Protest was filed by Mr. Michael Maddalo and Ms. Christine Maddalo on December 2, 2019.

On December 9, 2019, East Norriton filed a Petition to Intervene. On December 9, 2019, a Protest was filed by Mr. Allen Dalton.

A Prehearing Conference was held on December 30, 2019, before Administrative Law Judge (“ALJ”) Angela T. Jones, at which time the parties agreed upon a procedural schedule and discovery modifications, memorialized in a prehearing order issued on December 31, 2019. The December 31, 2019 Order additionally designated Mr. and Ms. Maddalo as inactive participants, per their request.

On January 3, 2020, the OSBA, OCA, and I&E served direct testimony and exhibits.

The Laborers District Council filed a Notice of Appearance and Petition to Intervene on January 10, 2020.

On January 10, 2020, Aqua served rebuttal testimony and exhibits. No other parties submitted rebuttal testimony.

A Smart Public Input Hearing was held on January 13, 2020 at which time five consumers and a representative from the Laborers District Council testified.

On January 15, 2020, Aqua filed an Answer to the Petition to Intervene filed by the Laborers District Council.

By Order dated January 16, 2020, ALJ Jones granted Mr. Mansell's Petition for Leave to Withdraw, dated December 12, 2019.

Additionally, on January 16, 2020, ALJ Jones issued an Order granting the Laborers District Council's Petition to Intervene.

On January 17, 2020, the OSBA, OCA, and I&E served surrebuttal testimony and exhibits.

Throughout this proceeding, the parties engaged in extensive formal and informal discovery.

Aqua served its rejoinder outline on January 21, 2020.

The parties engaged in settlement discussions. Based on the progress of the settlement discussions, the parties requested the cancellation of the January 23, 2020 hearing date and also requested that the January 24, 2020 hearing date be rescheduled to convene at 10:00 a.m. ALJ Jones granted the parties' request.

Settlement was reached by the parties, and on January 23, 2020, the parties requested that the January 24, 2020 hearing be conducted telephonically as cross-examination was waived for all witnesses; ALJ Jones also granted this request. A telephonic hearing was held on January 24, 2020, at which time evidence was submitted by stipulation and all parties agreed to waive cross-examination.

The OSBA actively participated in the negotiations that led to the proposed settlement, and is a signatory to the Joint Petition for Approval of Settlement (“Settlement”). The OSBA submits this statement in support of the Settlement.

III. STATEMENT IN SUPPORT OF SETTLEMENT

In its prehearing memorandum, the OSBA initially identified the issue of whether the Asset Purchase Agreement impermissibly freezes rates for East Norriton customers to the detriment of Aqua’s existing customers. The OSBA submitted testimony focusing on this issue, and spent extensive time in settlement discussions attempting to resolve this issue. The OSBA does not oppose the terms in the Settlement related to East Norriton Rates (*See* Paragraphs 23.H(1) through 23.H(2)), as (i) the Joint Petitioners acknowledge that the Commission retains ultimate authority to set rates, including the authority to allocate revenues to the East Norriton customers that are in excess of the restrictions contained in Section 7.03(a) of the Asset Purchase Agreement, and (ii) the OSBA has preserved its right to fully address and make rate proposals concerning the East Norriton System in the first base rate case following acquisition. As such, the OSBA has concluded that the settlement is reasonable and in the interests of the Company’s and East Norriton’s Small C&I customers.

Furthermore, the OSBA does support other resolutions outlined in the Settlement. In particular, the OSBA has reviewed and analyzed the testimony related to the fair market value of the East Norriton System and agrees with the figure to be used for ratemaking rate base purposes presented in Paragraph 23.F of the Settlement.

IV. CONCLUSION

Settlement of this proceeding avoids the litigation of complex, competing proposals and saves the possibly significant costs of further administrative proceedings. Such costs are borne not only by the Company and East Norriton, but ultimately by the Company's and East Norriton's customers as well. Avoiding further litigation of this matter will serve judicial efficiency, and will allow the OSBA to more efficiently employ its resources in other areas.

For the reasons set forth in the Settlement, as well as the additional factors enumerated in this statement, the OSBA supports the proposed Settlement and respectfully requests that ALJ Jones and the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,



Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

For:

John R. Evans
Small Business Advocate

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Dated: February 18, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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DATE: February 18, 2020