


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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March 20, 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 Exception in the above-referenced proceeding.

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

Respectfully submitted,

/s/ Erin L. Gannon
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Senior Assistant Consumer Advocate
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Enclosures:

cc: Honorable Angela T. Jones, ALJ (via e-mail only)
Office of Special Assistants (e-mail only: ra-OSA@pa.gov)
Certificate of Service

*285416

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Exception, 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 20th day of March 2020.

SERVICE BY E-MAIL ONLY

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Dated: March 20, 2020
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

EXCEPTION OF
THE OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

On March 13, 2020, Administrative Law Judge (ALJ) Angela T. Jones issued a Recommended Decision recommending approval, without modification, of the Joint Petition for Settlement (Joint Petition) filed on February 6, 2020 and entered into by Aqua Pennsylvania Wastewater, Inc. (APW, Aqua or Company), East Norriton Township (ENT, East Norriton or Township), the Office of Consumer Advocate (OCA), the Bureau of Investigation & Enforcement (I&E) and the Office of Small Business Advocate (OSBA).

The OCA is not withdrawing from the Joint Petition. The OCA supports the ALJ's recommendation to approve the Joint Petition and respectfully submits the following Exception for the limited purpose of clarifying the bounds of the Joint Petition. Therefore, the OCA files the following Exception pursuant to Section 5.533 of Commission's regulations. 52 Pa. Code § 5.533.

II. EXCEPTION

OCA Exception No. 1: The Recommended Decision Adopted Facts Not Contained in the Joint Petition and Unnecessary for Approval of the Joint Petition.
R.D. at 25-39.

The ALJ correctly noted that Commission policy promotes settlements, as settlements promote judicial efficiency by lessening the time and expense the parties must expend in litigation. R.D. at 19. As stated by the ALJ, the Commission has held that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. Id. citing 52 Pa. Code § 69.401. Importantly, the ALJ correctly stated that the focus of the inquiry for determining whether a proposed settlement should be recommended for approval is whether the proposed settlement terms and conditions are in the public interest. R.D. at 20.

The OCA supports the ALJ's recommendation to approve the Joint Petition without modification. The OCA merely seeks to clarify the limitations of the proposed Settlement. As such and as discussed further below, the OCA respectfully requests that the following finding should not be adopted by the Commission:

APW has agreed not to raise rates on its existing customers; therefore, there will not be any immediate impact on their rates. Aqua Exhibit No. 1, Application ¶ 51.g, ENT Stmt. in Support at 6.

R.D. at 25.

As a result of the proposed transaction, both existing and acquired customers may see rate increases related to this transaction after future Aqua base rate cases. Aqua has not entered into an agreement to not raise rates on its existing customers. As provided in the notices served by Aqua to its wastewater and water customers, the proposed rate base addition that will occur in Aqua's next base rate case may increase rates for existing Aqua wastewater and water customers. See Application Exh. II.

Additionally, the OCA notes that the Recommended Decision's discussion regarding witness testimony at the smart public input hearing states as follows:

Five of the six witnesses that testified at the smart hearing stated they did not want their rates to increase. See *supra* at 6-8.

...

However, the Settlement ensures that there is no immediate rate increase for ENT or APW customers as the current rates of ENT customers will be implemented after the transaction is approved. Any rate increase to ENT or APW customers would be due to a future base rate case filing and the approval of the Commission.

I find that the objections to this Application voiced by these five smart hearing witnesses is rebutted by the directives concerning implementing rates agreed upon in the Settlement.

R.D. at 39.

The ALJ correctly noted that the focus of the inquiry for determining whether a proposed settlement should be recommended for approval is whether the proposed settlement terms and conditions are in the public interest. See R.D. at 19-20. The OCA respectfully submits that the above portions of the Recommended Decision's discussion of rates does not reflect the terms of settlement reached by the parties. As such, the OCA submits for purposes of clarification that an agreement not to raise rates on existing customers is not a component of the proposed transaction.

III. CONCLUSION

The OCA respectfully requests that the Commission clarify, or refrain from adopting, certain aspects of the Recommended Decision, consistent with the foregoing Exception. With that qualification, the OCA supports the ALJ's recommendation to approve the Joint Petition for Settlement without modification.

Respectfully submitted,

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Dated: March 20, 2020

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