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March 23, 2020

Via Electronic Filing

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

In re: Docket No. A-2019-3009052
Application of Aqua Pennsylvania Wastewater, Inc. – East Norriton Township

Dear Secretary Chiavetta:

We are counsel for Aqua Pennsylvania Wastewater, Inc. (“Aqua”) in the above matter and are submitting, with this letter via electronic filing, the First Amendment to the Asset Purchase Agreement, dated March 3, 2020, between Aqua and East Norriton Township. The First Amendment amends Section 2.01 of the Asset Purchase Agreement, dated October 29, 2018, between Aqua and the Township in accordance with the settlement terms presented to the Public Utility Commission in the Joint Petition of Aqua, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and East Norriton Township for Approval of Settlement, filed with you on February 6, 2020, and recommended for approval by Judge Jones in her Recommended Decision dated March 10, 2020. Copies of the First Amendment to the Asset Purchase Agreement are being served as presented in the Certificate of Service attached to this letter.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

cc: Certificate of Service (w/encl.)
Alexander R. Stahl, Esq. (via email, w/encl.)

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of March 2020 served a true and correct copy of the foregoing letter and First Amendment to Asset Purchase Agreement, upon the persons and in the manner indicated below:

VIA ELECTRONIC MAIL

The Honorable Angela T. Jones
Administrative Law Judge
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
angeljones@pa.gov

Gina L. Miller, Prosecutor
Erika L. McLain, Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
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Thomas T. Niesen, Esquire
PA Attorney ID No. 31379

FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT

DATED MARCH 3, 2020

THIS FIRST AMENDMENT TO THE ASSET PURCHASE AGREEMENT (“First Amendment”) is made as of the 3rd day of March, 2020, by and between, Township of East Norriton, Montgomery County (“East Norriton”), a body corporate and politic, duly organized and existing under the laws of the Commonwealth of Pennsylvania, and Aqua Pennsylvania Wastewater Inc. (“Aqua”), a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania.

RECITALS:

WHEREAS, Aqua and East Norriton entered into that certain Asset Purchase Agreement dated October 29, 2018 (“APA”);

WHEREAS, Aqua and East Norriton desire to amend certain provisions of the APA to become effective upon the date of this First Amendment; and

WHEREAS, the parties hereto desire to reaffirm all other provisions of the APA not specifically amended hereby.

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. The last paragraph of Section 2.01 is hereby deleted in its entirety and replaced with the language set forth below. The remainder of Section 2.01 remains unchanged.

“EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, INCLUDING ANY REPRESENTATION AS TO THE PHYSICAL CONDITION OR VALUE OF ANY OF THE ACQUIRED ASSETS OR THE SYSTEM, OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING THAT MAY BE ALLOWED BY THE PAPUC FOR ANY OF THE ACQUIRED ASSETS. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE VALID ONLY UNTIL THE TIME OF CLOSING. NOTWITHSTANDING THE FOREGOING, SELLER IS NOT AWARE OF ANY MATERIAL DEFECT IN THE PERFORMANCE OR OPERATION OF THE PHYSICAL ASSETS CONSTITUTING THE SYSTEM.”

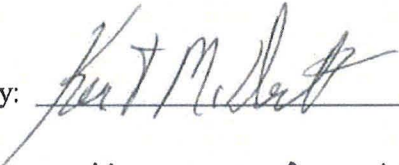
2. All other provisions, terms, and conditions of the APA not specifically amended by this First Amendment remain in full force and effect. Aqua and East Norriton reaffirm the APA as amended hereby.

EXECUTION VERSION

IN WITNESS WHEREOF, the parties hereto have duly executed this First Amendment on the date first written above.

TOWNSHIP OF EAST NORRITON,
MONTGOMERY COUNTY

AQUA PENNSYLVANIA WASTEWATER,
INC.

By: 

By: 

Printed: KEVIN T. McDEVITT

Printed: MARC A. LUCA

Its: CHAIRMAN, BOARD OF SUPERVISORS

Its: PRESIDENT