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August 20, 2020

Rosemary Chiavetta, Secretary  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg PA 17105-3265

Re: Application of Aqua Pennsylvania Wastewater,  
Inc. pursuant to Sections 507, 1102, and 1329 of  
the Public Utility Code for, inter alia, approval of  
the acquisition of the wastewater system assets of  
the Delaware County Regional Water Quality  
Control Authority, Docket No. A-2019-3015173

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced proceeding please find the Joint Answer of Edgmont Township, Lower Chichester Township, Southwest Delaware County Municipal Authority, Trainer Borough, and Upland Borough to Office of Consumer Advocate's Motion for an Extension of the Statutory Suspension Period.

This document is being served on the Administrative Law Judge, the Chief Administrative Law Judge, and all parties of record. The document was filed electronically with the Commission on this date.

Sincerely,



Enclosure

cc: Angela Jones, Administrative Law Judge  
Charles Rainey, Chief Administrative Law Judge  
All parties of record

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, inter alia, approval of	:	
the acquisition of the wastewater system assets of	:	Docket No. A-2019-3015173
the Delaware County Regional Water Quality	:	
Control Authority	:	

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JOINT ANSWER OF EDMONT TOWNSHIP, LOWER CHICHESTER  
TOWNSHIP, SOUTHWEST DELAWARE COUNTY MUNICIPAL  
AUTHORITY, TRAINER BOROUGH, AND UPLAND BOROUGH  
TO OFFICE OF CONSUMER ADVOCATE'S MOTION FOR AN  
EXTENSION OF THE STATUTORY SUSPENSION PERIOD

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Pursuant to 52 Pa. Code § 5.61, and the Procedural Order entered August 18, 2020, by Administrative Law Judge Angela Jones, Edgmont Township ("Edgmont"), Lower Chichester Township ("Lower Chichester"), Southwest Delaware County Municipal Authority ("SWDCMA"), Trainer Borough ("Trainer"), and Upland Borough ("Upland") (collectively "Municipal Protestants") file this Joint Answer in Support of the Motion of the Office of Consumer Advocate ("OCA") for an Extension of the Statutory Suspension Period ("OCA Motion"). In support of the OCA Motion, Municipal Protestants state as follows:

1. Each Municipal Protestant filed a Protest against the Application of Aqua Pennsylvania Wastewater, Inc. ("Aqua") and Delaware County Regional Water Quality Control Authority ("DELCORA").

2. The Protests were filed by SWDCMA on July 17, 2020; Lower Chichester on August 7, 2020; Upland on August 7, 2020; Edgmont on August 17, 2020; and Trainer on August 17, 2020.

3. Each Municipal Protestant is a municipal corporation located in Delaware County, Pennsylvania.<sup>1</sup>

4. Nearly all of the service area of DELCORA that Aqua proposes to acquire is located in Delaware County.

5. Delaware County is one of the counties in Pennsylvania most severely affected by the COVID-19 pandemic. According to Pennsylvania Department of Health data as of August 18, Delaware County has had more than 9,700 confirmed cases of COVID-19,<sup>2</sup> and it has the highest rate of COVID-19 deaths in the Commonwealth, at more than 126 per 100,000 people.<sup>3</sup> The result has been a devastating impact not only on the health of County residents, but on the County's economy as well. In June 2020 (the most recent data available), the County's unemployment rate was 13.6% -- more than three times higher than it was before the pandemic.<sup>4</sup>

6. The pandemic's impact also has been felt on municipal government offices throughout the County. Access to municipal offices is limited due to COVID-19, many employees and local officials are working remotely (some while trying to juggle

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<sup>1</sup> The Public Utility Code defines a municipal corporation to include, townships, boroughs, municipal authorities, and certain other local government entities. 66 Pa. C.S. § 102.

<sup>2</sup> [https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20County%20Data/County%20Case%20Counts\\_8-18-2020.pdf](https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20County%20Data/County%20Case%20Counts_8-18-2020.pdf)

<sup>3</sup> <https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Death%20Data/Death%20by%20County%20of%20Residence%20--%202020-08-18.pdf>

<sup>4</sup> [https://www.workstats.dli.pa.gov/Documents/Monthly%20Press%20Releases/philamesa\\_pr.pdf](https://www.workstats.dli.pa.gov/Documents/Monthly%20Press%20Releases/philamesa_pr.pdf)

the schedules of school-age children who will be learning remotely),<sup>5</sup> boards are meeting by conference call or video conference, and (not surprisingly) many governmental functions are taking longer than normal to perform.

7. These restrictions also have affected Municipal Protestants' ability to fully prepare for, and participate in, this proceeding. Searches of municipal records and files are more time-consuming; arranging meetings between the Solicitor, regulatory counsel, and key personnel take longer; and discussions about case strategy and related matters are more difficult to coordinate. While Municipal Protestants have initiated discovery and remain committed to fully participating in this proceeding, the pandemic has made it extremely challenging to do so within the time periods set forth in the draft schedule circulated by Administrative Law Judge Jones.<sup>6</sup>

8. Municipal Protestants agree with the OCA that a "month and a half long litigation schedule in the midst of these extraordinary circumstances does not promote due process or further the public interest."<sup>7</sup> Municipal Protestants respectfully submit that it is for precisely these types of circumstances that the Governor's Proclamation of Disaster Emergency and the Commission's Emergency Order were adopted. It is simply not reasonable to require either state government entities (like the OCA, I&E, and OSBA) or local government entities (like Municipal Protestants) to conduct their business during normal timeframes when there is nothing normal about the way in which they are operating.

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<sup>5</sup> For example, the Chichester School District that serves much of the same area covered by SWDCMA, Lower Chichester, and Trainer has announced that all classes will be held online for the foreseeable future. <https://www.chichestersd.org/>

<sup>6</sup> Further Corrected Prehearing Conference Order, dated August 17, 2020.

<sup>7</sup> OCA Motion, p. 7.

9. A 60-day extension of the statutory deadline in this proceeding also would provide time for the parties to attempt to streamline issues through stipulations, admissions, and/or partial settlements. Under the current schedule, with all testimony and hearings compressed in a two-week period, it may not be feasible to conduct the types of discovery and negotiations necessary to attempt to limit the issues that must be litigated.

10. Aqua and DELCORA will not be unduly prejudiced by granting a 60-day extension of the statutory deadline in this case. The Asset Purchase Agreement between Aqua and DELCORA contains an “outside date” for closing the transaction that is “365 days after the date the application to the PaPUC is accepted as complete by the PaPUC and the statutory 6-month consideration period is initiated.”<sup>8</sup>

The Application was accepted as complete by Secretarial Letter issued on July 27, 2020. A 60-day extension of the statutory deadline would have the Commission issue a final decision by the end of March 2021, which is within eight months of the date the Application was accepted as complete. This is approximately four months earlier than the “outside date” for closing agreed to by Aqua and DELCORA.<sup>9</sup>

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<sup>8</sup> Exhibit B1 to the Application, Article I (definition of “Outside Date”).

<sup>9</sup> Even if there are appeals or other post-decision delays, Aqua and DELCORA already have agreed to further extend the “outside date” to cover that eventuality. *See* Exhibit B1 to the Application, Article I (definition of “Outside Date”) (“if there is litigation pending on such date in which a party thereto seeks to prevent the consummation of the transaction described in this Agreement, or to frustrate a material term contained in this Agreement (specifically including, without limitation, litigation involving the proceedings before the PaPUC as contemplated by this Agreement,) the Outside Date will be extended to the date that is sixty (60) days following the unappealable resolution of any such litigation.”); and Section 14.01 (Aqua has “the one-time right to extend the Outside Date for up to one hundred twenty (120) days if, in the Buyer's sole discretion, any such amount of time up one hundred twenty (120) [sic] is necessary to obtain a required Governmental Approval.”).

WHEREFORE, for the reasons stated above and in the OCA Motion, Municipal Protestants fully support the OCA's requested 60-day extension of the statutory deadline for this proceeding and request the Chief Administrative Law Judge to grant the requested relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott J. Rubin". The signature is fluid and cursive, with the first name "Scott" and last name "Rubin" clearly distinguishable.

Scott J. Rubin, Esq.  
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Counsel for:  
Edgmont Township, Lower Chichester Township,  
Southwest Delaware County Municipal Authority,  
Trainer Borough, and Upland Borough

Dated: August 20, 2020

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VERIFICATION

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I, Ronald Gravina, the Chairman of the Edgmont Township Board of Supervisors, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: August 19, 2020

Ronald Gravina

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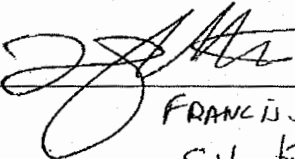
VERIFICATION

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I, Francis J. Catania, the Solicitor of Southwest Delaware County Municipal Authority, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date:

8/19/20

  
FRANCIS J. CATANIA  
Solicitor  
SWDCMA



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VERIFICATION

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I, Regina Beck, the V. President of  
Trainer Borough, hereby state that the facts above set forth are true  
and correct to the best of my knowledge, information and belief, and that I expect to be able to  
prove the same at a hearing held in this matter. I understand that the statements herein are made  
subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: Aug. 20, 2020

Regina T. Beck

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CERTIFICATE OF SERVICE

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I hereby certify that I have this day served a true copy of the foregoing document upon the following parties by electronic mail. Service by first-class mail will be provided to any party that requests such service.

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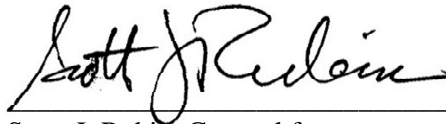
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August 20, 2020  
Date

A handwritten signature in black ink, appearing to read "Scott J. Rubin", written over a horizontal line.

Scott J. Rubin, Counsel for  
Edgmont Township, Lower Chichester Township,  
Southwest Delaware County Municipal Authority,  
Trainer Borough, and Upland Borough