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August 24, 2020

Honorable Judge Charles E. Rainey, Jr.  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17105-3265

**VIA ELECTRONIC FILING**

**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 Delaware County Regional Water Quality Control Authority  
Docket No. A-2019-3015173**

Dear Judge Rainey:

Attached for filing with the Pennsylvania Public Utility Commission is the Answer of the County of Delaware, Pennsylvania in Support of the Office of Consumer Advocate's Expedited Motion for an Extension of the Statutory Suspension period for Aqua Pennsylvania Wastewater Company's Application to Acquire the Delaware County Regional Water Quality Control Authority's Wastewater System Assets, in the above-referenced proceeding.

As shown by the attached Certificate of Service and per the Commission's March 20, 2020, Emergency Order, all parties to this proceeding are being duly served via email only due to the current COVID-19 pandemic. Upon lifting of the aforementioned Emergency Order, we can provide parties with a hard copy of this document upon request.

Sincerely,

McNEES WALLACE & NURICK LLC

By 

Adeolu A. Bakare

Counsel to the County of Delaware, Pennsylvania

c: Administrative Law Judge Angela T. Jones  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**ANSWER OF THE COUNTY OF DELAWARE IN SUPPORT OF THE OFFICE OF  
CONSUMER ADVOCATE'S EXPEDITED MOTION FOR AN EXTENSION OF THE  
STATUTORY SUSPENSION PERIOD FOR AQUA PENNSYLVANIA WASTEWATER  
COMPANY'S APPLICATION TO ACQUIRE DELAWARE COUNTY REGIONAL  
WATER QUALITY CONTROL AUTHORITY'S WASTEWATER SYSTEM ASSETS**

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NOW COMES the County of Delaware, Pennsylvania (the "County"), pursuant to 52 Pa. Code §§ 5.61, who files this Answer in Support of the Office of Consumer Advocate's ("OCA") Expedited Motion for an Extension ("Motion for Extension") of the Statutory Suspension period for Aqua Pennsylvania Wastewater Company's ("Aqua") Application ("Application") to Acquire the Delaware County Regional Water Quality Control Authority's ("DELCORA") Wastewater System Assets.

In support thereof, the County states as follows:

**RELEVANT BACKGROUND**

1. On May 18, 2020, the County filed a Petition to Intervene in this proceeding.
2. On June 11, 2020, the Commission issued a Secretarial Letter ("June 11 Secretarial Letter") conditionally accepting Aqua's Application, subject to Aqua's completion of the notifications and conditions established in the June 11 Secretarial Letter. The June 11 Secretarial Letter expressly stated it was a staff determination subject to reconsideration by the Commission by a petition made pursuant to Section 5.44 of the Commission's procedural regulations.

3. On June 23, 2020, the County filed the Petition for Reconsideration of Staff Action ("Petition for Reconsideration") requesting that the Commission rescind Staff's conditional acceptance of Aqua's Application.

4. On July 27, 2020, the Commission issued a Secretarial Letter ("July 27 Secretarial Letter") accepting Aqua's Application without requiring Aqua to provide all rate stabilization plan documents applicable to the proposed transaction. The July 27 Secretarial Letter accepted the Application and activated the above-captioned docket.

5. Also, on July 27, 2020, the Commission issued a hearing notice, which reflected the assignment of the docket to the Commission's Office of Administrative Law Judge with Administrative Law Judge Angela Jones presiding.

6. On August 7, 2010, the County filed a Petition for Stay with the Commission requesting a stay of all substantive proceedings in the docket involving Aqua's Application until there is a final determination in the pending Delaware County Court of Common Pleas Action at Docket No. CV-2020-003185 (the "Common Pleas Action") resolving disputed issues that directly bear on Aqua's Application.

7. On August 14, 2020, OCA filed the Motion for Extension, requesting that the Commission suspend the statutory period of Aqua's Application by 60 days in light of the mounting challenges resulting from the COVID-19 pandemic. OCA averred that the 60-day extension is appropriate and necessary so parties will have sufficient time to analyze the issues presented by the Application and allow a sufficient opportunity for customers to comment on the Application. OCA explained that its request is consistent with the Governor's issuance of a Proclamation of Disaster Emergency in the Commonwealth on March 6, 2020 and the Commission's Emergency Order issued on March 20, 2020 in Docket No. M-2020-3019262.

8. On August 18, 2020, Judge Jones issued a prehearing order directing parties to respond to OCA's Motion for Extension by close of business on August 24, 2020.

9. On August 20, 2020, a group of municipalities protesting Aqua's Application ("Municipal Protestants") filed a joint answer in support of OCA's Motion for Extension. The Municipal Protestants explained that the COVID-19 pandemic has detrimentally impacted the ability of municipal employees to work effectively and that accomplishing governmental functions has been taking longer than normal to perform. The Municipal Protestants averred that remote working and other COVID-19 restrictions have impacted their ability to fully prepare for and participate in Aqua's Application proceeding. Accordingly, the Municipal Protestants fully support OCA's requested 60-day extension.

#### **ANSWER IN SUPPORT**

10. The County supports OCA's Motion for Extension. In light of the ongoing difficulties associated with the COVID-19 pandemic and the need for OCA and the other parties to have adequate time to fully review and analyze Aqua's Application, an extension of 60 days is appropriate and in the public interest. However, the County notes that its support for OCA's Motion for Extension should not be construed as a waiver of any relief requested through the County's Petition for Reconsideration and Petition for Stay, both of which remain pending with the Commission.

11. Importantly, the COVID-19 pandemic has already complicated aspects of this proceeding. The parties are still working to resolve outstanding issues pertaining to a Protective Agreement proposed by Aqua. Specifically, Aqua's proposal to restrict review of Highly Confidential material to in-person inspection has emerged as a controversial issue as parties work to reconcile an otherwise familiar discovery process with various concerns related to COVID-19.

12. Additionally, the Commission recently issued orders granting requests to extend the statutory deadlines in base rate cases. The Commission found that litigating base rate cases without office resources and in-person hearings may be challenging and hinder the Commission's mission and the public interest. *See Pa. PUC. v. Pa. American Water Co.*, Docket No. R-2020-3019369 *et al.*, at p. 20 (Order entered Aug. 20, 2020); *Pa. PUC et al. v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835, at p. 20 (Order entered Aug. 20, 2020). The Commission emphasized that its suspension of statutory deadlines in those rate cases did not interfere with the substantive rights of the utilities challenging the requested extensions. *Id.* at 21; *id.* at 20-21. The County submits that the same reasoning should apply with even greater force in this proceeding due to the complexity of Aqua's Application, the massive volume of documents appended to the Application and produced through discovery, the growing number of intervening and protesting parties, and the continued expectation that all hearings for this proceeding would be conducted virtually.

**WHEREFORE**, the County of Delaware, Pennsylvania respectfully requests the Pennsylvania Public Utility Commission and the Presiding Administrative Law Judge grant OCA's Motion to Extend the statutory deadline by sixty days and order any and all other relief that is necessary and appropriate.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: August 24, 2020

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Dated this 24<sup>th</sup> day of August, 2020, in Harrisburg, Pennsylvania