PENNSYLVANIA

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

|  |  |
| --- | --- |
|  | Public Meeting held August 27, 2020 |
| Commissioners Present:  Gladys Brown Dutrieuille, Chairman  David W. Sweet, Vice Chairman  John F. Coleman, Jr.  Ralph V. Yanora | |
| Application of Aqua Pennsylvania Wastewater, Inc., pursuant to Sections 507, 1103, and 1329 of the Public Utility Code for Approval of its Acquisition of  the Wastewater System Assets of the Delaware County Regional Water Quality Control Authority | A-2019-3015173 |
|  |  |
|  |  |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration of Commission Staff Action (Petition), filed by the County of Delaware, Pennsylvania (County) on June 23, 2020, in the above-captioned proceeding. The Petition was filed in response to a Secretarial Letter dated June 11, 2020 (*June 2020 Secretarial Letter*)that was prepared by the Commission’s Bureau of Technical Utility Services (TUS). On July 9, 2020, Aqua Pennsylvania Wastewater, Inc. (Aqua or Company) filed an Answer to the Petition. Also, before the Commission, is the Answer and Reply of the County to the Answer of Aqua or, in the alternative Amended Petition, filed by the County on July 15, 2020 (Amended Petition).[[1]](#footnote-1) On August 4, 2020, the Company filed an Answer to the Amended Petition (Answer to Amended Petition). For the reasons below, we shall deny the Amended Petition.

**History of the Proceeding**

This matter concerns the Application of Aqua filed on March 3, 2020, pursuant to Sections 507, 1102, and 1329 of the Public Utility Code (Code), 66 Pa. C.S. §§ 507, 1102, and 1329. In its Application, Aqua requests the issuance of an Order and Certificates of Public Convenience approving the Company’s acquisition of the wastewater system assets of the Delaware County Regional Water Quality Control Authority (DELCORA) and the resulting ratemaking rate base pursuant to Section 1329(c)(2) of the Code.

On May 18, 2020, the County filed a Petition to Intervene in the Application proceeding. Thereafter, in the *June 2020 Secretarial Letter*, the Commission notified Aqua of the conditional acceptance of the Application for filing. However, the Commission directed the Company: (1) to proceed to provide notice of the filing of the Application; (2) to amend its Application to include certain supplemental materials; and (3) to ensure verification of the supplemental materials.

On June 23, 2020, the County filed its Petition requesting the rescission of the *June 2020 Secretarial Letter* and the reissuance of an amended Secretarial Letter with the following additional condition:

Require Aqua to comply with Section 1329(d)(1)(v) of the Public Utility Code and amend its Application to include all relevant documents related to the Rate Stabilization Plan (referenced in Paragraph 36 of the Application and in various direct testimony statements) prior to filing a verification letter with the Commission.

Petition at 1-2.

On July 9, 2020, Aqua filed an Answer to the Petition averring that there is no Rate Stabilization Plan referenced in Paragraph 36 of the Application or in various direct testimony statements. The Company objects to the County’s Petition arguing, in part, that the Petition was not ripe for review. Answer to Petition at 6.

By Secretarial letter dated July 14, 2020 (*July 14, 2020 Secretarial Letter*), the Commission notified the Parties that the docket was inactive but, if Aqua satisfied all of the conditions in the *June 2020 Secretarial Letter*, and the docket became active as a result of that satisfaction, the Petition, and any responsive filings, would be accepted into the docket and assigned for formal action and disposition.

On July 15, 2020, the County filed its Amended Petition incorporating the averments of the initial Petition and averring “new and additional information concerning developments in a civil court proceeding that arose after the County filed its Petition.” Amended Petition at 2.

On July 23, 2020, Aqua filed a letter confirming completion and satisfaction of the notice requirements and conditions set forth in the *June 2020 Secretarial Letter* and requested that the Commission finally accept the Application.

By Secretarial Letter dated July 27, 2020 (*July 27, 2020 Secretarial Letter*), the Commission acknowledged receipt of the Company’s completion of the requirements and conditions of filing and accepted Aqua’s Application for consideration.

On August 4, 2020, Aqua filed its Answer to the Amended Petition.[[2]](#footnote-2)

**Discussion**

**Legal Standards**

As a preliminary matter, we note that any issue we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. [*Consolidated Rail Corp. v. Pa. PUC*,625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also see, generally,* [*University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

Petitions for Reconsideration of Staff Action are governed by Section 5.44 of the Commission’s Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.44, which provides the following:

Actions taken by staff, other than a presiding officer, under authority delegated by the Commission, will be deemed to be the final action of the Commission unless reconsideration is sought from the Commission within 20 days after service of notice of the action, unless a different time period is specified in this chapter or in the act.

52 Pa. Code § 5.44(a).

When evaluating appeals from a Commission staff action under 52 Pa. Code § 5.44, the applicable legal standard is that the moving party has the burden of proof. *See, e.g., Application of Airquest*, Docket No. A-2015-2493073 (Order entered December 8, 2016) (request for reconsideration of secretarial letter denying application for failure to comply with conditions); *Application of Dep’t of Transportation (Norfolk),* Docket No. A-2018-3003795 (November 19, 2019) (request for reconsideration of secretarial letter approving application with conditions).

# Amended Petition and Answer

In its Petition, the County objects to Aqua’s assertion in its Application that it is not presenting a rate stabilization plan. The County submits that, although the Company states it is not submitting a rate stabilization proposal, it is clear from the Application and supporting documents that a rate stabilization plan exists and constitutes an integral part of the transaction. Petition at 5.

Citing to the Application, the County notes that DELCORA proposes to take a portion of the transaction proceeds and place them into the DELCORA Customer Trust Fund (Trust) for the benefit of DELCORA’s customers. The County further emphasizes that DELCORA “is requesting to apply payments to DELCORA customers from the Trust through Aqua’s billing process. A proforma Memorandum of Understanding [MOU] is attached as Appendix B to Mr. Packer’s testimony, to facilitate payments from the [T]rust to be put on DELCORA customer bills.” Petition at 2 (quoting Application at ¶ 36).

The County also references the MOU describing Aqua’s responsibilities under the proposal as follows:

Aqua Wastewater shall calculate the customer assistance payment amount for each DELCORA customer and the total customer assistance payment amount for each billing period, and shall provide its calculation, along with any and all information necessary to confirm the calculation of both payment amounts to the designated calculation agent.

Petition at 2 (quoting Aqua St. No. 2 at 7, Appendix B). According to the County, however, the Application contains no information about how the Company will calculate the customer assistance amount for each DELCORA customer. Petition at 3.

The County further highlights witness testimony explaining the purpose of the trust as stabilizing the bills for DELCORA customers at an annual increase of 3% for 8-12 years. *Id.* (citing Aqua St. No. 5 at 10, 21-23). The County contends that Aqua has a statutory obligation under Section 1329(d)(1)(v) of the Code to attach a rate stabilization plan to its Application when such a plan is applicable to the transaction. Such a stabilizing proposal under the Trust proposal is a rate stabilizing plan applicable to the transaction, the County states. Petition at 4.

In addition, the County cites to a press release by DELCORA which evidences the important relationship between the rate stabilization plan and the proposed transaction. The press release describes, in part, the transaction as including a “rate stabilization plan” to offset customer bill increases. Petition at 4-5.

The County submits that the straightforward requirement of Section 1329(d)(1)(v) of the Code must be met regardless of any belief or representation as to the impacts of the rate stabilization or whether Aqua anticipates that the plan would shift any revenue towards existing customers. According to the County, such substantive questions are beyond the scope of its Petition and can be addressed in the underlying proceeding. The County argues, however, that the existence of a rate stabilization plan in any way related to the Application and acquisition requires Aqua to provide information about it before the Commission can accept the Application for filing. Petition at 6.[[3]](#footnote-3)

In its Answer to the Petition, Aqua argues that the Petition is not ripe for review because the docket is inactive until the Commission formally accepts the Application for filing. Answer to Petition at 2-3 (citing *Implementation of Section 1329 of the Public Utility Code – Final Supplemental Implementation Order*, Docket No. M‑2016-2543193 (Order entered February 28, 2019) (*FSIO*) at 42; and *Application of Pennsylvania-American Water Company Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Water System Assets of the Steelton Borough Authority*, Docket No. A-2019-3006880 (Secretarial Letter dated February 15, 2019) (PAWC Application)).

The Company also contends that it is not proposing a rate stabilization plan which is defined in Section 1329 of the Code as a “plan to hold rates constant or phase rates in over a period of time after the next base rate case.” Answer to Petition at 3 (quoting 66 Pa. C.S. § 1329(g)). According to the Company, the proposed tariff submitted with its Application implements the DELCORA rates for DELCORA customers post-closing and Aqua is not proposing to hold rates constant or phase in new rates over a period of time after its next base rate case. Petition at 3.

Next, Aqua argues that the application of payments to DELCORA customers from the Trust is not a tariff matter and is not part of Aqua’s jurisdictional rates. Thus, the Company asserts it will have no control over the Trust. According to Aqua, the Trust is intended to create a fund from a portion of the sale proceedings in order to stabilize rates for DELCORA customers. The Company argues the Trust is not a matter of jurisdictional interest to the Commission and that the Commission is not permitted to undertake a review of the selling utility’s use of the sale proceeds. Answer to Petition at 4.

Aqua also submits that DELCORA’s use of sale proceeds to apply payments to customer bills – which the Company describes as a “customer assistance payment” – will have no impact on the Company’s jurisdictional tariff rates. Additionally, Aqua proffers that there is no limiting language in the Asset Purchase Agreement (APA) between Aqua and DELCORA or language in the Application that would purport to limit the Commission’s ratemaking authority. *Id*.

Aqua contends that references to the testimony of DELCORA’s Executive Director using the word “stabilized” or the phrasing of DELCORA’s press release do not warrant a conclusion that DELCORA’s customer assistance payment is a rate stabilization plan under Section 1329 of the Code. Instead, the Company submits that DELCORA is describing its intention to create an offset to customer bills. *Id*. at 4-5.

Aqua emphasizes that the DELCORA bills would be based on Aqua’s jurisdictional rates going forward. To address DELCORA’s customer assistance payment request, Aqua is proposing to include a payment line on its bills to DELCORA customers similar to how it already applies customer assistance payments from other third-party organizations to customer bills. The Company argues, however, that inclusion of a customer assistance payment on the bills does not make the payment or its calculation a jurisdictional matter for the Commission. *Id.* at 5.

After the filing of the Petition and the Answer to the Petition, the Commission issued the *July 14, 2020 Secretarial Letter* acknowledging receipt of the filings but explaining that the docket was inactive pending the satisfaction of conditions in the Commission’s *June 2020 Secretarial Letter*. The Secretarial Letter stated that upon satisfaction of the conditions, the Petition and any responsive filings would be accepted into the docket and assigned for formal action and disposition. *July 14, 2020 Secretarial Letter* at 2.

On July 15, 2020, the County filed its Amended Petition in response to Aqua’s arguments in its Answer to the Petition that the Company is not proposing a rate stabilization plan and that DELCORA’s use of sale proceeds is not a jurisdictional matter. The County submits that its Amended Petition provides new and additional information concerning developments in a civil court proceeding that arose after the County filed its Petition. In addition, the Amended Petition responds to the Company’s arguments about ripeness. For relief, the County reiterates its request that the Commission rescind the *June 2020 Secretarial Letter* and reissue the Secretarial Letter with an additional condition on Aqua to include relevant documents related to the rate stabilization plan prior to filing a verification letter with the Commission. The County incorporates the arguments from its Petition. Amended Petition at 2.

The County explains that it filed a Complaint against DELCORA in the Court of Common Pleas of Delaware County at Docket No. CV-2020-003185 (Common Pleas Action). On July 2, 2020, the Delaware County Court of Common Pleas entered an order (Common Pleas Order) granting Aqua’s petition to intervene in the Common Pleas Action. According to the County, the Common Pleas Order is relevant to the disposition of the Petition because it provides the Commission with more complete information upon which to render a decision. In support, the County attaches a copy of the Common Pleas Order. Amended Petition at 3, App. No. 1.

The County submits that recent admissions by Aqua in the Common Pleas Action confirm that the proposed plan described in its Application is a rate stabilization plan subject to Section 1329 of the Code. Specifically, the County quotes from Aqua’s petition to intervene in the Common Pleas Action as follows:

5. The APA is structured in such a way as to protect [DELCORA’s] customers by capping all rate increases for customers at 3% per year, by placing the proceeds of the sale (after paying down [DELCORA’s] obligations) into an independently managed irrevocable trust for the benefit of these customers, with Univest Bank and Trust Co. serving as trustee (“Univest”).

Amended Petition at 3-4.

The County states that the Common Pleas Order in granting Aqua’s petition to intervene held “this Court determines that Aqua has a real financial interest, referred to as a third-party beneficiary of the DELCORA Trust Agreement ….” Amended Petition at 4 (quoting Common Pleas Order at 2).

In addition, the County argues that Aqua is attempting to evade the requirements of Section 1329 by improperly construing the term “rate” as being limited to the Company’s jurisdictional tariff rates. The County asserts that the term is not limited to jurisdictional rates, but pursuant to Section 102 of the Code is defined more broadly as follows:

**Every individual, or joint fare, toll, charge, rental, or other compensation** whatsoever of any public utility, or contract carrier by motor vehicle, made, demanded, or **received for any service within this part**, offered, rendered, or furnished by such public utility, or contract carrier by motor vehicle, **whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation**, charge, fare, toll, or rental.

Amended Petition at 4 (quoting 66 Pa. C.S. § 102 (emphasis by the County)). The County also cites to the decision in *McCloskey v. Pa PUC*, 219 A.3d 1216 (Pa. Cmwlth. 2019) (*McCloskey*) for the holding that the term “rate” in Section 1301.1 of the Code, 66 Pa. C.S. § 1301.1, is not limited to base rates. Amended Petition at 4.

The County proffers that the plan to limit post-acquisition rates for DELCORA’s customers to 3% falls squarely within the statutory definition of a rate stabilization plan to phase rates in over a period of time after the next base rate case. The County also argues that Aqua’s assertion that DELCORA’s customer assistance payment is not a jurisdictional matter contradicts the Code and prejudices the Parties to the Application proceeding. *Id*. at 4-5 (citing 66 Pa. C.S. § 1306 (requiring adherence to tariffs and prohibiting utilities from directly or indirectly receiving a greater or less rate for any service rendered)).

According to the County, Aqua is attempting to distinguish a rate stabilization by the Applicant from a rate stabilization by the seller – legal arguments appropriate for the adjudication of its Application. The County contends that the Company should not be permitted to place the burden on the Parties to pursue discovery of documents already clearly identified for filing pursuant to the statute. Amended Petition at 5.

Next, the County objects to the argument that its Petition is not ripe for consideration. The County argues that the Secretarial Letter issued in the PAWC Application, which involved a dispute about the substance of the customer notices filed with its Application, is distinguishable from this matter which involves a wholesale omission of a statutory filing requirement. Alternatively, the County asserts that the public interest weighs in favor of the waiver of a rule requiring petitions for reconsideration of staff action be considered after an Application is formally filed. *Id*. at 5-6.

Furthermore, the County acknowledges the issuance of the *July 14, 2020 Secretarial Letter*, but argues that the Commission’s deferral of its Petition until after the Application is finally accepted for filing would violate the County’s right to procedural due process over its challenge to the staff determination. *Id.* at 7 (citing 52 Pa. Code § 5.44).

As indicated above, the Commission issued the *July 27, 2020 Secretarial Letter* accepting the Application for filing following the Company’s completion of the compliance steps set forth in the *June 2020 Secretarial Letter*.

On August 4, 2020, Aqua filed its Answer to Amended Petition reasserting that it is not proposing a rate stabilization plan. The Company states that the tariffed rates proposed in the Application will implement the DELCORA rates for DELCORA customers post-closing. Aqua asserts that it is not proposing to hold these rates constant or phase-in new rates over a period of time after its next base rate case. Regarding DELCORA’s proposed customer assistance payments, Aqua argues that “[w]hat an unregulated third party does with respect to the proceeds of a sale, whether it be to invest those funds into the community or put them into a trust is not jurisdictional to the Commission and not a rate stabilization plan under the Code.” Answer to Amended Petition at 3.

Furthermore, Aqua proffers that limiting the word “rate” to jurisdictional rates is entirely consistent with Section 102 of the Code which explains that a “rate” is a charge “made, demanded, or received for any service within [the Code].” *Id.* at 4 (quoting 66 Pa. C.S. § 102). The Company submits that DELCORA’s customer assistance payment is not a charge “made, demanded or received for any service within [the Code]” but rather a payment to be made from the Trust to offset the rate “made demanded, or received by Aqua for its wastewater service.” Aqua objects to the County’s attempt to expand the statutory definition of rate to include an offsetting payment or credit from an unregulated third party as being unwarranted and contrary to the express language of the Code. *Id*.

Next, Aqua asserts that its averment in the Common Pleas Action was not an admission that its Application includes a rate stabilization plan. According to the Company, the County’s interpretation of the averment is not warranted because the APA does not protect DELCORA customers from increases in jurisdictional rates and has no language limiting the Commission’s ratemaking authority. Answer to Amended Petition at 4-5.

Regarding the contention that the Parties are being forced to expend time and resources litigating the production of documents, Aqua states that discovery is underway in this proceeding. The Company highlights that the Office of Consumer Advocate provided interrogatories asking both DELCORA and Aqua to provide information and details concerning the customer assistance payment. Additionally, the Bureau of Investigation and Enforcement served interrogatories on Aqua asking the Company to provide a sample bill showing the DELCORA customer assistance payment and a schedule showing how the payment will be calculated. *Id*. at 5.

Aqua states that both DELCORA and the Company answered the interrogatories without objection and the County was provided copies of the answers. According to Aqua, no Party is burdened or prejudiced by the staff action of conditionally accepting the Application. *Id*.

Regarding the County’s argument of procedural due process violations, Aqua submits that the County had notice of the filing of the Application and has filed a petition to intervene in the proceeding. Aqua also notes that once the docket becomes active, the Petition and any responsive pleadings will be accepted and assigned for formal action and disposition. Moreover, Aqua argues that the County admits its requested relief only relates to administrative compliance with Section 1329’s filing requirements and does not pertain to substantive arguments concerning the legal sufficiency of claims or representations. Answer to Amended Petition at 6.

**Disposition**

Upon review, we shall deny the County’s request to rescind the *June 2020 Secretarial Letter* and to reissue a Secretarial Letter which requires Aqua to submit information related to the purported rate stabilization plan.[[4]](#footnote-4)

As an initial matter, we note the purpose of the *June 2020 Secretarial Letter*. TUS’s letter operated as a conditional administrative notice that Aqua had preliminarily satisfied the Application Checklist for purposes of filing the Application. The *June 2020 Secretarial Letter* clearly set forth its conditional nature and emphasized that additional steps and customer notices were necessary before the Application could be considered complete for purposes of beginning the six-month consideration period under Section 1329. However, the *June 2020 Secretarial Letter* did not make any determination, let alone a final determination, regarding the adequacy or substance of the Company’s response to the question of whether a rate stabilization plan is being proposed in the Application. Indeed, we delegated authority to TUS to determine the completeness of Section 1329 applications. We did not intend or authorize TUS to make any substantive determination regarding the merits of the Application.

In the *Tentative Supplemental Implementation Order* we explained our intent regarding TUS’s role in ensuring compliance with the Application Checklist:

The Commission would clarify here that [TUS] does not review the veracity or substantive quality of information that an applicant may submit to fulfill the threshold requirements of the Application Checklist. [TUS] is to evaluate only whether the Application Checklist is complete and responsive to the data requested. It shall not refuse to perfect an application on the basis that the Bureau is dissatisfied with the quality of items submitted in response, or whether additional information may later be required.

*Implementation of Section 1329 of the Public Utility Code – Tentative Supplemental Implementation Order*, Docket No. M-2016-2543193 (Order entered September 20, 2018) at 15. We further explained our expectation that TUS should review:

whether the applicant has included, in good faith, the information required by the Commission for the initial filing such that the six-month consideration period of Section 1329(d)(2) may begin without causing (1) the applicant to suffer a summary rejection if the application were to remain under TUS review and (2) due process and other procedural concerns before the [OALJ] if the application is to proceed to an initial decision.

*Id.[[5]](#footnote-5)*

Here, TUS satisfied its duty by conditionally determining that the threshold requirements of the Application Checklist had been satisfied. Upon review, we find that TUS properly considered the Application filing materials and that there was no basis for TUS to determine that Aqua’s response to the rate stabilization plan question somehow lacked good faith on the face of the Application materials.

However, as is now evident from the Petition, the Amended Petition and the responsive pleadings, the County and the Company present a factual dispute of whether a rate stabilization plan exists and whether it is applicable to the Application. At this stage of the Application proceeding, therefore, it would be premature and potentially violative of due process for the Commission to make a determination about this factual dispute without the development of a full evidentiary record.

Notwithstanding the six-month consideration period set forth in Section 1329, there is sufficient time for the Parties to conduct discovery and present their testimony and arguments regarding the rate stabilization plan question during the normal administrative litigation process. As noted in ALJ Jones’s Corrected Prehearing Conference Order dated August 6, 2020, the Parties are encouraged to initiate discovery as early as possible in the proceeding and to exchange information on an informal basis to the extent possible. Indeed, as Aqua asserts, it appears that discovery regarding the rates stabilization plan is already underway.

Moreover, we disagree with the County’s argument that consideration of the Petition and the Amended Petition at this stage – after the issuance of the *July 27, 2020 Secretarial Letter* – is a violation of its procedural due process rights. In contrast, we find that we are protecting the procedural due process rights of the litigants by ensuring notice and an opportunity for a hearing on a disputed factual issue.

Our action here is not to be construed as prejudging any pending matters including the Petition for Stay by the County recently filed after the issuance of the *July 27, 2020 Secretarial Letter*. Rather, our Opinion and Order is limited to resolving the outstanding issue of whether the Commission staff action in accepting the Application for filing was appropriate. Finding no error in the TUS’s action, we shall deny the Petition and the Amended Petition.

**Conclusion**

For the reasons set forth above, we shall deny the Petition and the Amended Petition, consistent with the discussion in this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Reconsideration of Commission Staff Action, filed by the County of Delaware, Pennsylvania on June 23, 2020, is denied, consistent with this Opinion and Order.

2. That the Answer and Reply to the Answer of Aqua Pennsylvania Wastewater, Inc. or, in the alternative Amended Petition, filed by the County of Delaware, Pennsylvania on July 15, 2020, is denied, consistent with this Opinion and Order.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 27, 2020

ORDER ENTERED: August 27, 2020

:

1. The Amended Petition incorporates all the averments in the Petition and, thus, we shall refer to both filings collectively as the Amended Petition unless the context suggests otherwise. [↑](#footnote-ref-1)
2. By Hearing Notice dated July 27, 2020, the Office of Administrative Law Judge (OALJ) scheduled an Initial Call-in Telephonic Prehearing Conference for September 2, 2020, before Administrative Law Judge (ALJ) Angela Jones. Thereafter, on August 7, 2020, the County filed a Petition for Stay of the Application proceeding and a Request for Commission Review and Answer to a Material Question (Petition for Stay). The Petition for Stay and any subsequent answers will be addressed in a separate Commission Opinion and Order. [↑](#footnote-ref-2)
3. Specifically, the County asserts that Aqua must provide testimony, schedules, and work papers that establish the basis of the rate stabilization plan and its impact on existing customers who need to cover the revenue requirement that would be shifted to them under the plan. Petition at 5 (citing *Implementation of Section 1329 of the Public Utility Code – Final Implementation Order*, Docket No. M-2016-2543193 (Order entered October 27, 2016) at 27). [↑](#footnote-ref-3)
4. Granting the County’s requested relief would, by implication, also require the rescission of the *July 27, 2020 Secretarial Letter*. Thus, to the extent that the Amended Petition also seeks rescission of the Commission’s issuance of the Secretarial Letter finally accepting the Application for filing, the County’s request is denied. [↑](#footnote-ref-4)
5. Our subsequent Opinion and Order in *FSIO* did not alter our expectations regarding TUS’s reviewing responsibilities of the Application filing at this stage of the proceeding. [↑](#footnote-ref-5)