


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oa

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

August 31, 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 507, 1102 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
Docket No. A-2019-3015173

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Enclosures:

cc: The Honorable Angela T. Jones (**email only**)
Certificate of Service

*295038

CERTIFICATE OF SERVICE

Re: Application of Aqua Pennsylvania Wastewater :
Inc. pursuant to Sections 507, 1102 and 1329 :
of the Public Utility Code for Approval of its : Docket No. A-2019-3015173
Acquisition of the Wastewater System Assets :
of the Delaware County Regional Water Quality :
Control Authority :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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 31st day of August 2020.

SERVICE BY E-MAIL ONLY

Gina L. Miller, Esquire
Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Thomas T. Niesen, Esquire
Thomas, Niesen & Thomas, LLC
212 Locust Street
Suite 302
Harrisburg, PA 17101

Thomas Wyatt, Esquire
Matthew S. Olesh, Esquire
Obermayer Rebmann Maxwell & Hippel LLP
Centre Square West
1500 Market Street, Suite 3400
Philadelphia, PA 19102

Erin K. Fure, Esquire
Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

Alexander R. Stahl, Esquire
Kimberly A. Joyce, Esquire
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Kenneth D. Kynett, Esquire
Charles G. Miller, Esquire
Petrikin Wellman Damico Brown & Petrosa
The William Penn Building
109 Chesley Drive
Media, PA 19063

Adeolu A. Bakare, Esquire
Robert F. Young, Esquire
Kenneth R. Stark, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Cynthia Pantages
C&L Rental Properties, LLC
30 S Lake Drive
P.O. Box 516
Lake Harmony, PA 18624

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Thomas J. Sniscak, Esquire
Kevin J. McKeon, Esquire
Whitney E. Snyder, Esquire
Melissa A. Chapaska, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101

Scott J. Rubin, Esquire
333 Oak Lane
Bloomsburg, PA 17815

Santo G. Spataro
Assistant Consumer Advocate
PA Attorney I.D. # 327494
E-Mail: SSpataro@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: August 31, 2020
*294646

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Aqua Pennsylvania	:	
Wastewater Inc. pursuant to Sections 507, 1102	:	
and 1329 of the Public Utility Code for	:	Docket No. A-2019-3015173
Approval of its Acquisition of the Wastewater	:	
System Assets of the Delaware County	:	
Regional Water Quality Control Authority	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the Prehearing Order issued by Administrative Law Judge Angela T. Jones on August 17, 2020, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION

On March 3, 2020, Aqua Pennsylvania Wastewater, Inc. (Aqua or Company) filed an Application under Sections 507, 1102, and 1329 of the Public Utility Code seeking Public Utility Commission (Commission) approval of the acquisition of Delaware County Regional Water Quality Control Authority (DELCORA or Authority) wastewater collection and treatment system, the right of Aqua to provide wastewater service in the areas served by the Authority, and approval of the ratemaking rate base of the assets as determined under Section 1329(c)(2) of the Public Utility Code. By Secretarial Letter dated June 11, 2020, the Commission conditionally accepted the Application. The Commission required individual notice to be provided to Aqua's existing water and wastewater customers, that Aqua ensure concurrent notice is provided to all current

DELCORA wastewater customers, and that newspaper notice in the DELCORA area be provided. Upon completion, Aqua was directed to file a verification that the notice has been provided.

On March 26, 2020, the Office of Small Business Advocate filed a Notice of Intervention and Public Statement. The OCA filed a Protest and Public Statement on April 2, 2020. On April 2, 2020, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance. On May 18, 2020, the County of Delaware, Pennsylvania (Delaware County) filed a Petition to Intervene. On June 17, 2020, Edgmont Township, Delaware County, Pennsylvania (Edgmont Township) filed a Petition to Intervene. On June 25, 2020, DELCORA filed a Petition to Intervene. On July 17, 2020, Southwest Delaware County Municipal Authority (SDCMA) filed a Protest. On August 7, 2020, Lower Chichester Township and Upland Borough filed a Protest. On August 17, 2020 Trainer Borough filed a Protest. On August 17, 2020, Edgmont Township filed a Protest and a Petition for Leave to Withdraw the Petition to Intervene.

On July 23, 2020, Aqua filed a letter, with an attached verification, stating that it had complied with the notice requirements contained in the June 11, 2020 Secretarial Letter. By Secretarial Letter dated July 27, 2020, the Commission informed Aqua that it had accepted the Application for filing. A Prehearing Conference Order was issued on August 3, 2020 directing the parties to submit a prehearing conference memorandum by noon on August 31, 2020. On August 17, 2020, a Further Corrected Prehearing Conference Order was issued to correct dates contained in the previously issued Prehearing Conference Order.

II. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Christine Maloni Hoover and Erin L. Gannon, and by Assistant Consumer Advocates Harrison W. Breitman and Santo G. Spataro. At this time, as a result of the COVID-19 pandemic, the OCA

will be providing service via e-mail and does not expect other parties to serve the OCA by mail.

Two copies of all documents should be served in the OCA as follows:

Christine Maloni Hoover
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, Forum Place 5th Floor
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
Email: OCADelcora@paoca.org

III. DISCOVERY

Discovery modifications have been addressed in the ALJ's Prehearing Order due to the expedited schedule under Section 1329, which requires a Commission Order on the Section 1329 request no later than six months after the filing and final acceptance of such application. 66 Pa. C. S. § 1329. The OCA has served six sets of discovery to date.

IV. WITNESSES

The OCA intends to present the testimony of Ralph Smith (Financial, Ratemaking, Appraisal and Policy Issues). Mr. Smith's contact information is as follows:

Ralph Smith
Larkin & Associates
15728 Farmington Road
Livonia, MI 48154
OCADelcora@paoca.org

To the extent necessary, the OCA's witness will present testimony regarding the impact of the proposed transaction on Aqua's existing customers and the acquired customers, and other financial, technical and ratemaking issues presented in this proceeding.

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is

necessary for any portion of its case, it will notify Your Honor and all parties of record immediately.

V. ISSUES

The OCA is participating in this proceeding to ensure the interests of Aqua's existing customers and acquired customers are protected. Based upon a preliminary analysis of the Application, the OCA has compiled a list of issues which it anticipates will be included in its investigation. It is anticipated that other issues may arise and may be pursued once all of the answers to the OCA's interrogatories have been received and analyzed.

The issues set forth below will be analyzed and presented as appropriate by the OCA with the assistance of its expert witnesses:

(1) Provision of Safe, Adequate and Reasonable Service at Just and Reasonable Rates: The Asset Purchase Agreement provides that Aqua will pay \$276,500,000 for the Authority's wastewater collection and treatment system assets which have a depreciated original cost, as defined in Section 1329, of \$191,774,486. Aqua seeks to have the purchase price approved for inclusion in rate base under Section 1329, as part of this proceeding. The OCA will examine each appraisal and the requested rate base determination.

(2) Substantial Affirmative Benefits: The OCA submits that additional information is necessary to determine how the transaction will substantially and affirmatively benefit Aqua's existing customers and the acquired customers.

(3) Conditions: The OCA will examine whether any conditions should be imposed upon the proposed transfer to ensure that customers are treated in a fair and just manner in accord with Pennsylvania law and Commission rules and regulations.

(4) Trust: The OCA will examine the proposed Trust to determine whether it is a rate stabilization plan and whether it is adequately supported and reasonable or, alternatively, whether the rate commitments are reasonable.

The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Applicant.

VI. PUBLIC INPUT HEARINGS

In *McCloskey v. Pa. P.U.C.*, the Commonwealth Court concluded that, in an Application proceeding under Section 1329, individual customer notice of the proposed sale has to be given to all ratepayers as well as an opportunity for them to participate in the proceeding. 195 A.3d 1055 (Pa. Commw. 2018) (*New Garden*). As such, the OCA respectfully requests that the Commission conduct two smart public input hearings for the Aqua and DELCORA customers impacted by the acquisition. The OCA proposes the afternoon and evening of September 10th for telephonic smart public input hearings. The OCA will work with the parties, ALJ Jones, and the Commission's scheduling staff to reach a mutually agreeable hearing date.

VII. SCHEDULE

The OCA proposes the following schedule:

Other Parties Direct Testimony	Wednesday, September 9, 2020
Rebuttal Testimony	Tuesday, September 16, 2020
Surrebuttal Testimony	Tuesday, September 23, 2020
Main Briefs	Friday, October 2, 2020
Reply Briefs	Tuesday, October 13, 2020
Recommended Decision	Friday, November 13, 2020
Public Meeting	Thursday, January 14, 2021

VIII. SETTLEMENT

The OCA is willing to engage in settlement discussions with all parties.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Santo G. Spataro
Assistant Consumer Advocate
PA Attorney I.D. # 327494
E-Mail: SSpataro@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Counsel for:

Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg PA 17101-1923
(717) 783-5048
(717) 783-7152 (fax)

DATED: August 31, 2020
286372