



Matthew S. Olesh
215.665.3043
matthew.olesh@obermayer.com
www.obermayer.com

Obermayer Rebmann Maxwell & Hippel LLP
Centre Square West
1500 Market Street | Suite 3400
Philadelphia, PA 19102-2101
P: 215.665.3000
F: 215.665.3165

February 25, 2021

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265
rchiavetta.pa.gov

**RE: Docket No. A-2019-3015173; Application of Aqua Pennsylvania
Wastewater, Inc. – Delaware County Regional Water Quality Control
Authority**

Dear Secretary Chiavetta:

We serve as counsel to the Delaware County Regional Water Quality Control Authority (“DELCORA”) in the above matter and are submitting, with this letter, the Answer of DELCORA in Opposition to Objections of the County to the Joint Stipulation.

This document is being served via electronic mail on the Administrative Law Judges presiding over this matter and all parties of record. The document was also filed electronically with the Public Utility Commission on this date.

Very truly yours,

Matthew S. Olesh

cc: The Honorable Angela Jones, Administrative Law Judge
The Honorable F. Joseph Brady, Administrative Law Judge
All parties of record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**ANSWER OF DELAWARE COUNTY REGIONAL WATER QUALITY CONTROL
AUTHORITY IN OPPOSITION TO OBJECTIONS OF THE COUNTY OF DELAWARE
TO JOINT STIPULATION**

AND NOW, the Delaware County Regional Water Quality Control Authority (“DELCORA”), pursuant to 52 Pa. Code §§ 1.2(a) and 5.61, answers the Objections of the County of Delaware (the “County”) to the Joint Stipulation among Aqua Pennsylvania Wastewater, Inc. (“Aqua”), Southwest Delaware County Municipal Authority (“SWDCMA”) and DELCORA as follows:

I. INCORPORATION OF AQUA’S ANSWER

1. DELCORA joins in and incorporates by reference the Answer in Opposition to Objections of the County to the Joint Stipulation filed by Aqua.

II. DELCORA’S RESPONSES TO COUNTY’S OBJECTIONS

2. On the whole, the County sets forth a series of meritless procedural arguments in an attempt to obstruct resolution of an issue directly relates to and will assist the Commission in resolving this proceeding.

3. The Administrative Law Judges (“ALJs”) recommended the denial of Aqua’s Application on the basis of purportedly outstanding issues surrounding DELCORA’s legal ability to transfer its wastewater assets.

4. The Joint Stipulation and Notice of Withdrawal of SWDCMA at issue here resolves one of the outstanding issues that served as the basis for the ALJs' recommended denial of the Application.

5. As such, this is necessary information for the Commission to have before it when rendering a decision in this proceeding.

6. Additionally, the County's arguments directly contradict the Commission's policy to encourage settlement and the plain meaning of section 507 of the Public Utility Code.

7. Lastly, DELCORA has already filed joint stipulations with various other parties in this proceeding.

8. However, the County now invokes baseless procedural arguments in an attempt to obstruct the resolution to an issue raised by the ALJs.

In addition to incorporating and supporting Aqua's Answer, DELCORA briefly responds to the County's Objections individually below.

A. RESPONSE TO OBJECTION NO. 1

9. The County's objection that the Joint Stipulation—and more specifically, the assignment of the Amended Service Agreement between SWDCMA and DELCORA to Aqua—constitutes a “material change” to Aqua's Application, and thus warrants an affirmation of the Recommended Decision and outright rejection of the Application is entirely without merit. *See* Objection of the County of Delaware to the Joint Stipulation, ¶¶6–14.

10. DELCORA joins in the arguments made by Aqua that the Joint Stipulation and Amended Service Agreement do not change Aqua's Application.

11. Rather, the Joint Stipulation simply removes what the ALJs viewed as an obstacle to approval of the Application *as submitted* by amicable resolution reached among Aqua,

DELCORA and SWDCMA.

12. As such, the County's Objection No. 1 should be rejected and denied.

B. RESPONSE TO OBJECTION NO. 2

13. Similarly, the County's argument that Aqua must submit the Joint Stipulation as an amendment to Aqua's Application or Petition for a reopening the record to admit the Joint Stipulation as "new evidence" is without merit. *See id.* ¶¶15–16.

14. DELCORA joins in the arguments made by Aqua that the Amended Service Agreement is not relevant to Aqua unless or until the Commission approves its Application—then, as required by section 507 of the Public Utility Code, Aqua will file the amended Service Agreement with the Commission no later than the thirty (30) days prior to closing of the Proposed Transaction. This approach is entirely consistent with the Code.

15. Therefore, the County's Objection No. 2 should be rejected and denied.

C. RESPONSE TO OBJECTION NO. 3

16. Lastly, the County's argument that the Joint Stipulation violates the due process rights of the other parties to this proceeding because they will not have a chance to review and comment on what the County believes is a "material amendment" to Aqua's Application is entirely baseless. *See id.* ¶17.

17. DELCORA joins in the arguments submitted by Aqua that the County does not have any standing to challenge the *private* resolution and withdrawal of SWDCMA's Protest to the Application.

18. Additionally, as Aqua argues, the Joint Stipulation does not implicate any issue raised and litigated by the County—therefore, the County lacks standing to object to SWDCMA's withdrawal.

19. Thus, the County's Objection No. 3 should be rejected and denied.

III. CONCLUSION

WHEREFORE, the Delaware County Regional Water Quality Control Authority requests that the Commission disregard or deny the County of Delaware's Objections to the Joint Stipulation and grant such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

/s/ Thomas Wyatt

Thomas Wyatt, Esquire (PA I.D. 89342)
Matthew S. Olesh, Esquire (PA I.D. 206553)

**OBERMAYER REBMANN
MAXWELL & HIPPEL LLP**

Centre Square West

1500 Market Street, Suite 3400

Philadelphia, PA 19102

Tel.: (215) 665-3000

Fax: (215) 665-3165

Thomas.Wyatt@obermayer.com

Matthew.Olesh@obermayer.com

*Counsel for the Delaware County Regional
Water Quality Control Authority*

Date: February 25, 2021

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**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**

A-2019-3015173

CERTIFICATE OF SERVICE

I, Matthew Olesh, Esq., hereby certify that I have served a true and correct copy of the foregoing Answer of the Delaware County Regional Water Quality Control Authority in Opposition to Objections of the County Of Delaware to Joint Stipulation upon the following parties by electronic mail.

Gina L. Miller, Prosecutor
Erika L. McLain, Prosecutor
Bureau of Investigation and
Enforcement
Pennsylvania Public Utility
Commission
ginmiller@pa.gov
ermclain@pa.gov

Steven C. Gray
Senior Supervising
Assistant Small Business Advocates
Office of Small Business Advocate
sgray@pa.gov

Kenneth D. Kynett, Esq.
Charles G. Miller, Esq.
Petrikin, Wellman, Damico, Brown &
Petrosa
kdk@petrikin.com
cgm@petrikin.com

Christine Maloni Hoover
Erin L. Gannon
Senior Assistant Consumer
Advocates
Harrison W. Breitman
Santo G. Spataro
Assistant Consumer Advocates
Office of Consumer Advocate
OCADELCORA@paoca.org

Adeolu A. Bakare, Esq.
Robert F. Young, Esq.
Kenneth R. Stark, Esq.
McNees Wallace & Nurick LLC
abakare@mcneeslaw.com
ryoung@mcneeslaw.com
kstark@mcneeslaw.com

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

Scott J. Rubin, Esq.
scott.j.rubin@gmail.com

Justin Weber, Esq.
Michelle M. Skjoldal, Esq.
Jason T. Ketelson, Esq.
Marc Machlin, Esq.
Troutman Pepper Hamilton Saunders
LLP
michelle.skjoldal@troutman.com
jason.ketelson@troutman.com
justin.weber@troutman.com
marc.machlin@troutman.com

John F. Povilaitis, Esquire
Alan M. Seltzer, Esquire
Buchanan Ingersoll & Rooney, PC
john.povilaitis@bipc.com
alan.seltzer@bipc.com

Ross Schmucki
rschmucki@gmail.com

Patricia Kozel
Pattyk6@icloud.com

Robert W. Scott, Esq.
rscott@robertwscottpc.com

Thomas J. Sniscak, Esq.
Kevin J. McKeon, Esq.
Whitney E. Snyder, Esq.
Melissa A. Chapaska, Esq.
Hawke McKeon & Sniscak LLP
tjsniscak@hmslegal.com
kjmckeon@hmslegal.com
wesnyder@hmslegal.com
machapaska@hmslegal.com

Cynthia Pantages
C&L Rental Properties, LLC
cyndipantages@gmail.com

Edward Clark, Jr.
Treasure Lake Property Owners
Association
gm@treasurelake.us

Lawrence and Susan Potts
Susie01213@aol.com

/s/ Matthew Olesh
Matthew S. Olesh, Esq.

Dated: February 25, 2021