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March 10, 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 among Edgmont Township, Aqua Pennsylvania Wastewater, Inc. and DELCORA.

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 WITH EDMONT TOWNSHIP**

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”), Edgmont Township (“Edgmont”) 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 that directly relates to and will assist the Commission in resolving this proceeding.

3. DELCORA joins in the arguments made by Aqua that the Parties to the Stipulation (i.e., Edgmont, DELCORA and Aqua) have not requested or proposed that the Commission or any other Party to this proceeding approve or accept the Joint Stipulation. The Joint Stipulation does not contain any proposed factual findings the Commission is being asked to make that are adverse

to the County or any other party to this proceeding. Therefore, the County's reliance on 52 Pa. Code §5.231(d) for standing to oppose the Joint Stipulation is misplaced. *See* Objection of the County of Delaware to the Joint Stipulation, ¶4.

4. 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.

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

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

7. 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.

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

9. Nonetheless, the County continues to invoke baseless procedural arguments in an attempt to obstruct the resolution of 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

10. The County's objection that the Joint Stipulation—and more specifically, the assignment of the Amended Service Agreement between Edgmont 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 id.*, ¶¶6–18.

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

12. 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 Edgmont.

13. As such, the County’s Objection No. 1 should be rejected and denied.

B. RESPONSE TO OBJECTION NO. 2

14. 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.* ¶¶19–21.

15. 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.

16. Therefore, the County’s Objection No. 2 should be rejected and denied.

C. RESPONSE TO OBJECTION NO. 3

17. 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.* ¶22.

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

19. 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 Edgmont's withdrawal.

20. 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

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Date: March 10, 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.

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Dated: March 10, 2021