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April 7, 2022

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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 Secretary Chiavetta:

This letter is the response of the County of Delaware (the "County") to the letter submitted to the Pennsylvania Public Utility Commission by counsel for Aqua Pennsylvania Wastewater, Inc. ("Aqua") dated March 25, 2022 ("Aqua's March 25 Letter").

Aqua's March 25 Letter requests the Commission, inter alia, to "rule on the pending Petition as expeditiously as possible." The Petition at issue is Aqua's Petition for Reconsideration of Staff Action. The Petition requested that the Commission reconsider Administrative Law Judge F. Joseph Brady's Order Staying Proceeding issued April 16, 2021 ("Stay Order"). Per the Stay Order, the proceeding "is stayed pending a final unappealable decision in the County of Delaware's lawsuit against DELCORA currently before the Commonwealth Court at Docket No. 148 CD 2021[.]" Stay Order, OP 1. By its terms, the stay applies to the County's lawsuit against the Delaware County Regional Water Quality Control Authority ("DELCORA"), and Aqua's intervention therein, in the Court of Common Pleas of Delaware County (the "Civil Litigation").

Once again, Aqua has chosen to submit a procedurally improper letter in its attempt to influence the Commission action on Aqua's Petition rather than file a recognized motion or petition which allows for an answer period. The Commission should summarily reject Aqua's unauthorized letter pursuant to Sections 1.4(d) and 1.38 of the Commission's regulations, 52 Pa. Code §§ 1.4(d), 1.38. The Commission should continue to defer ruling on the Petition, as Aqua's March 25 letter omits key information that, when considered, clearly shows there is no basis for the Commission to act.

First, the Commonwealth Court's Order of March 3, 2022 remanded the case to the Court of Common Pleas for further action. Therefore, the Civil Litigation has not concluded. The Commonwealth Court's Order of March 3, 2022 is final and unappealable as to certain issues resolved therein, which include the validity of the County's Ordinance and the reversal of the Common Pleas Order of December 28, 2020. The Court of Common Pleas needs to issue a new order on remand. The new order should issue a writ of mandamus requiring DELCORA to cooperate in its termination by the County.

Aqua's assertion of no further appellate litigation is complete speculation. As of the date above, the trial court has not issued the order on remand. The remand order may be subject to further appeals by any aggrieved parties. Accordingly, nothing has changed *vis a vis* the status of the Civil Litigation and the bases for the Stay Order.

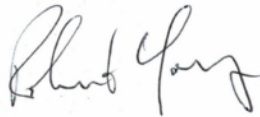
Second, Aqua entirely omits mentioning the County's pending petition for review of the Commission's March 30, 2021 Order in this proceeding, which commenced after the issuance of the Stay Order. That matter is pending at Commonwealth Court docket number 455 CD 2021. Pursuant to Pennsylvania Rule of Appellate Procedure 1701, the County's appeal divested the Commission of jurisdiction to proceed with Docket A-2019-3015173. See *Wexford Sci. & Tech., LLC v. City of Pgh ZBA*, 260 A.3d 316, 329 n.7 (Pa. Cmwlth. 2021).

Third, Aqua's assertion that the County is "the party now responsible for assuming and implementing DELCORA's obligations under the APA" is simply wrong. Under Section 5622 of the Municipalities Authorities Act and case law, the County would not obtain any of DELCORA's assets nor assume any of DELCORA's obligations until the conclusion of the dissolution process.

Lastly, Aqua's proposed scope limitations for further proceedings before ALJ Brady are at odds with the Commission's March 30th Order. These arguments were addressed in the County's Brief in Opposition to Aqua Pennsylvania Wastewater Inc.'s Petition for Interlocutory Review of Order Staying Proceeding.

The County respectfully requests that the Commission reject Aqua's March 25 Letter and maintain the status quo pending the later of the final, unappealable resolution of the of the Civil Litigation and the final, unappealable resolution of the County's Commonwealth Court appeal at 455 CD 2021.

Respectfully submitted,



Robert F. Young
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RFY:kkh

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John F. Povilaitis, Esquire

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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Certificate of Service
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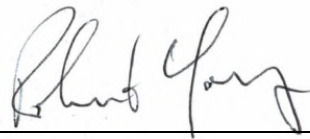
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Dated this 7th day of April, 2022, in Harrisburg, Pennsylvania