

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BEFORE: ANGELA T. JONES, Administrative Law Judge

Pennsylvania Public Utility	:	Docket Nos.
Commission et. al	:	R-2009-2132019, et al. including
	:	No. C-2010-2155875
V.	:	
	:	
	:	
Aqua Pennsylvania, Inc.	:	

REPLY BRIEF OF PRO SE ACTIVE PARTICIPANT  
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Dated: May 10, 2010

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## **I. TABLE OF CITATIONS**

1. 66 Pa.C.S.A. 1307 (g). Recovery of costs related to distribution system improvement projects designed to enhance water quality, fire protection reliability and long-term system viability.

## **II. REPLY TO THE MAIN BRIEF OF AQUA PENNSYLVANIA**

### **A. The rate of return of 7.47% (as projected for the future test year) approaches just and reasonable.**

Aqua in its brief at page 4 admits that the overall rate of return for the future test year is 7.47% and claims that this is not reasonable. This suggestion is untenable in light of the record produced and the current economic climate.

### **B. Aqua Pa's selection of the cost rate of common equity (claimed at 12%) as the basis for determining the rate of return guaranteed under the proposed rate increase is not just and reasonable.**

1. Aqua's own brief sets for the cost of long term debt equity at 5.7%.
2. The record in this matter established that in November 2009 Aqua raised 74.685 million dollars in long term debt equity via tax exempt bonds paying between 4.75 and 5 percent.
3. Aqua's own brief sets forth its long term debt/common equity ratio at 47.49%/52.51%.
4. A just and reasonable rate increase should be based upon the least expensive method of raising funds for the public purpose.
5. Aqua has chosen the most expensive means to raise capital which method inures to the benefit of its board of directors and executives who have extensive common stock holdings rather than the least expensive method for the benefit of the public that this monopoly serves.

### **C. The Distribution System Improvement Cost (DSIC) reimbursement should be applied towards customer refunds and any granted increase as it was implemented in violation of 66 Pa.C.S.A section 1307 (g).**

66 Pa.C.S.A section 1307 (g) allows automatic adjustment of the rates "for recovery of the fixed costs (depreciation and pretax return) of certain distribution system improvement projects, as approved by the commission" via the due process of law commensurate with any substantial rate increase. The record lacks evidence of a comprehensive plan approved by the commission through due process proceedings for the \$500 million spent by Aqua increasing its physical assets by 24.8% in less than 2 years. (AP P.4).

### **D. Jury trial of factual disputes is requested under 66 Pa.C.S.A. section 901 for the following disputed factual assertions in Aqua's Brief:**

1. Just and reasonableness of AP's proposed rate of return (P.4).
2. Just and reasonableness of AP's proposed service lives and depreciation calculations (P.7).
3. Just and reasonableness of AP's claimed cost of common equity of 12%. (P.10).
4. Just and reasonableness of AP's proposed rate structure, rate design and allocations and the methodology employed. (P.11).
5. Just and reasonableness of AP's proposed debt/equity ratio to the extent it is used to justify a rate increase (P. 11).


### III. CONCLUSION

A. Aqua has failed to meet its burden of proof that the proposed rate increase is just and reasonable

B. Aqua's rate increase request should be denied and there should be a customer refund for payment received for Distribution Improvement as referenced in II. C, supra.

C. There are numerous facts in dispute and Pro se Active Participant requests trial by jury under section 901 for all issues of fact raised during these proceedings and in particular those referenced in II. D, 1-5 supra.

SUBMITTED BY:

  
Jonathan Briskin, MD  
Pro Se Active Participant

**CERTIFICATE OF SERVICE**

Re: Pennsylvania Public Utility Commission  
v.  
Aqua Pennsylvania, Inc.  
Docket No. R-2009-2132019 et al. including No. C-2010-2155875

I hereby certify that I have this day served a true copy of the foregoing Reply Brief of Pro Se Active Participant, Jonathan Briskin, MD upon parties of record in this proceeding. Service is 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 10th day of May 2010.

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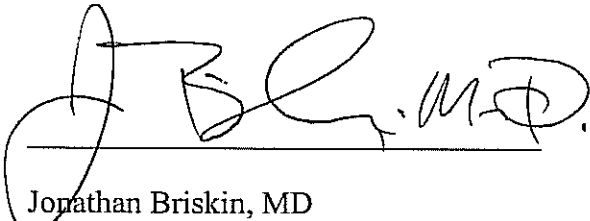
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