

MARGARET A. MORRIS
DIRECT DIAL: (215) 495-6524
E-MAIL: mmorris@regerlaw.com

April 7, 2011

Via Electronic Filing
Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105

**Re: Docket No. C-2011-2231056
Donna White v. Aqua PA, Inc.
Preliminary Objection of Aqua Pennsylvania, Inc.**

Dear Secretary Chiavetta:

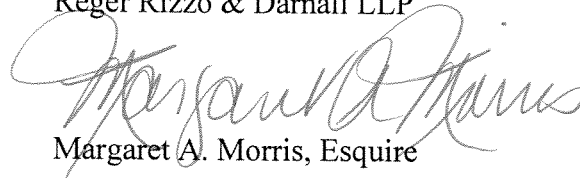
Enclosed for filing, please find the original of the Preliminary Objection of Aqua Pennsylvania, Inc. in the above-captioned proceeding.

As indicated on the certificate of service, a copy of the Answer has been provided to the Complainant in the manner indicated.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris, Esquire

Enclosures

cc: Donna White

**Re: Docket No. C-2011-2231056
Donna White v. Aqua PA, Inc.
Preliminary Objection of Aqua Pennsylvania, Inc.**

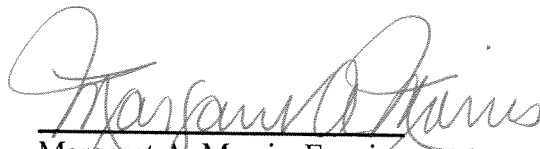
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons on the attached service list, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

Via First Class Mail

Donna White
130 Margate Road
Upper Darby, PA 19082

Dated: April 7, 2011


Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DONNA WHITE	:	
Complainant	:	
v.	:	Docket No. C-2011-2231056
AQUA PENNSYLVANIA INC.	:	
Respondent.	:	

PRELIMINARY OBJECTIONS

TO: The Pennsylvania Public Utility Commission

Aqua Pennsylvania Inc. (“Respondent”) hereby moves, pursuant to 52 Pa. Code § 5.101, to dismiss with prejudice the Formal Complaint filed on March 11, 2011 (“Complaint”) by Donna White (“Complainant”), in the above captioned proceeding. The Complainant fails to state a claim upon which relief can be granted. 52 Pa. Code §5.101(a)(4). In support thereof, the Respondent states as follows:

A. Summary of Argument

1. The Complainant alleges that she (1) opposes the pending rate application; (2) seeks a PAR; (3) seeks a waiver of LPCs when her bill is timely paid; and (4) seeks a portion of her outstanding bill be “forgiven”. Complaint, ¶ 4 and 5.

2. In order to be a legally sufficient complaint, the pleading submitted must set forth an “act or thing done or omitted to be done or about to be done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.” 52 Pa. Code §5.22(a)(4). See also 66 Pa. C.S. §701.

3. There are no issues of fact presented. There is no pending rate application. Chapter 14 does not permit another PAR. There is no legal basis to grant a waiver of LPCs or forgiveness of any or part of the account balance.

4. The Commission is granted discretion to dismiss any complaint without a hearing if in its opinion, a hearing is not necessary or in the public interest. 66 Pa. C.S.A. § 703(b), 52 Pa. Code §5.21(d).

5. A hearing is necessary only to resolve disputed questions of fact and when the question presented is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Committee v Pa PUC*, 128 Pa. Cmwlth. 259, 563 A.2d 548 (1989); *Edan Transportation Corp. v Pa PUC*, 154 Pa. Cmwlth 21, 623 A.2d 6 (1993).

6. This case does not involve disputed questions of fact. A hearing in this case is not necessary or in the public interest.

B. Procedural History

7. On March 11, 2011, the Complainant filed a Formal Complaint with the Commission under Docket No. C-2011-2231056, a copy of which is attached hereto as Exhibit “A”.

8. The Complainant seeks a hearing, *inter alia*, before the Commission to (1) oppose a pending rate application; (2) establish another PAR for her outstanding balance on her water account, (3) seek forgiveness of part of her account and (4) waive LPCs when her bill is not timely made.

C. The Requested Relief Should Be Dismissed Due to the Legal Insufficiency of the Pleading

9. Since the Commission is a creature of statute, it has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication. *Allegheny County Port Authority v. PA P.U.C.*, 427 Pa. 562, 237 A.2d 602 (1967).

10. The enforcement and remedial powers of the Commission, although formidable, are not those of a court. The Commission is empowered to correct, by regulation or order, abuses in the provision of service. *Feingold v. Bell of Pennsylvania*, 447 Pa. 1, 383 A.2d 791, 794 (1972).

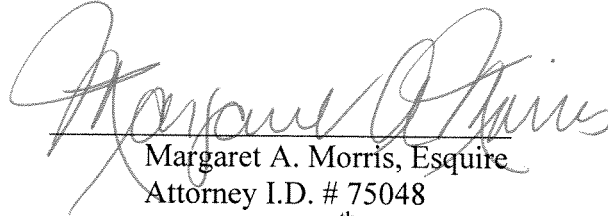
11. In the instant matter, the Complainant has improperly sought: (1) to oppose a rate application that does not exist; (2) to request a subsequent PAR under Chapter 14 when she has already defaulted on at least one Commission PAR; (3) to forego assessing LPCs when her account is not timely paid; and (4) to “forgive some portion of debt”. The Commission lacks the authority to grant any of the requested relief.

12. The request for relief should be dismissed with prejudice in the absence of a hearing since there are no questions of fact presented.

WHEREFORE, for the foregoing reasons, Aqua Pennsylvania, Inc. respectfully requests that this Honorable Court, in the absence of a hearing, dismiss with prejudice the Complaint of Donna White.

Respectfully submitted,

Dated: April 7, 2011

A handwritten signature in cursive script, appearing to read "Margaret A. Morris", is written over a horizontal line.

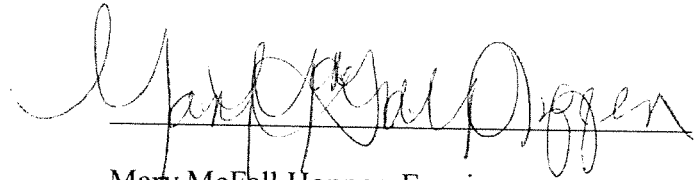
Margaret A. Morris, Esquire
Attorney I.D. # 75048
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 (voice)
(215) 495-6600 (fax)
mmorris@regerlaw.com

Counsel for Aqua Pennsylvania, Inc.

VERIFICATION

I, Mary McFall Hopper, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Company to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date:

A handwritten signature in cursive script, appearing to read "Mary McFall Hopper", written over a horizontal line.

Mary McFall Hopper, Esquire
Aqua Pennsylvania, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1170

Donna White v Aqua Pennsylvania, Inc.
Docket No. Docket No. C-2011-2231056

EXHIBIT A

PUC Formal Complaint



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

3-21-11
Received

IN REPLY PLEASE
REFER TO OUR FILE

DATE SERVED: March 17, 2011

C-2011-2231056

AQUA PENNSYLVANIA INC
NICHOLAS DEBENEDICTIS CHAIRMAN
762 WEST LANCASTER AVE
BRYN MAWR PA 19010

Dear Mr. DeBenedictis:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by DONNA WHITE. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

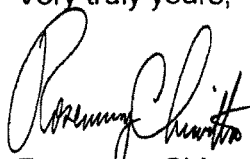
Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

March 17, 2011

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary

wjz

2011

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: MARCH 17, 2011

DONNA WHITE

Complainant

vs.

AQUA PENNSYLVANIA, INC.

Respondent

Complaint Docket

No: C-2011-2231056

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: AQUA PENNSYLVANIA, INC.

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if

3 of 11

you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

PENNSYLVANIA PUBLIC UTILITY COMMISSION

COPY

PFA

RECEIVED
2011 MAR 11 AM 9:51
SECRETARY'S OFFICE

Formal Complaint Form

Please print in ink or type.

C - 2011-2231056

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name Donna White

Street/P.O. Box 130 Margate Rd Apt # _____

City Upper Darby State Pa Zip 19082

County Delaware

Daytime Telephone Number Where We Can Contact You: () _____

E-mail Address (optional): _____

Utility Account Number 000 488018 0239125
(from your bill)

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

Agua

3. TYPE OF UTILITY (check one)

ELECTRIC

STEAM HEAT

GAS

WASTE WATER

WATER

MOTOR CARRIER

have disability & need⁶ water service

106240
5/11

TELEPHONE

(e.g., taxi, moving company, limousine)

(local, long distance)

4. COMPLAINT (check one)

A. In general, what is your complaint?

I want to oppose the company's proposed rate increase.

There are incorrect charges on my bill.

There is a reliability, safety or quality problem with my utility service.

I received a notice that my utility service is being terminated.

I would like a payment agreement.

Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

I have Requested direct Auto-pay w
agreement via my bank to pay 100.00 mo
I am Requesting this because the Helping
Hand program has been a failure in JAN 10
They requested a 2nd payment within a week
of 400.00 (2x ^{within a} month) to begin payment
+ their funds of \$10.00 per month to come
from Helping Hand program which should Assist
me more than \$10.00. To Me It is an Insult

5. RELIEF

How do you want your complaint to be resolved? Use additional paper if you need more space.

PAY MORE THAN 10.00 MONTH BY MY
DIRECT PAY VIA MY BANK THRU AUTO PAY
W AGREEMENT (NEW) FOR TO PAY OFF
WATER SOONER. THIS IS MY ATTEMPT
TO BE MORE SELF SUFFICIENT AND
VERIFIED COMMITMENT TO PAY DEBT
MORE RELIABLY AND SOONER. WITH
NO LATE FEES OF APPROX 200.00 MONTH.
THUS ADDING TO DEBT TO CONTINUOUSLY
CLIMB & AS A RESULT DEBT WILL NOT
DECREASE BECAUSE OF ADDITIONAL MONTHLY
LATE FEES. I AM REQUESTING ALSO NO
LATE FEES BE CHARGED. I CAN BE
CONSISTENT W AUTO-PAY 100.00 A MONTH
WITH BANK+MY VIA MY STATEMENTS (MONTHLY)
ALSO FORGIVE SOME PORTION OF DEBT

DONNA WHITE
0130 MARGATE RD
UPPER DARBY, PA 19082-4603

Account Number
000488018 0239
MAIN DIVISION
1101010

Aqua Pennsylvania, Inc.
762 W. LANCASTER AVENUE
BRYN MAWR, PA 19010-3489

Tel: 877.987.2782
Fax: 866.780.8301
eMail: custserv@aquaamerica.com

10 Day Shut Off No
COLLECTION DEPARTMENT OFFICE HOURS
7:30 AM - 5:00 PM WEEKI

Date of Notice Shut Off Date Total Amount
February 09, 2011 February 22, 2011 \$ 3,025.

Your bill for \$ 3,025.79 is overdue. Because your bill is overdue, we will SHUT OFF service to:

0130 MARGATE RD after 8:00 AM on or after February 22, 2011.

To stop the shut off, you must do the following immediately:

1. Pay the total amount overdue. To pay by phone, call our toll free number at 866.269.2906 or go to the payment website at <https://paynow7.speedpay.com/aqua/index.asp>.
2. Contact Aqua at 877.987.2782 (Select Collections) to let us know that you made a payment, to make a payment arrangement, or to dispute the overdue bill. You can also contact Aqua at our address above.
3. Call 877.987.2782 (Select Collections) if you or someone in your home has a serious illness or a medical condition.

Important Notice: Payments will not be accepted by Aqua representatives visiting the property. To avoid service termination due to unpaid bill(s), you must make payments at an authorized payment location. For the nearest location, please call 877.987.2782 (Select Collections). If we shut off your service, you may have to pay the following charges to have service restored:

Overdue amount:	\$ 3,025.79
Reconnect Fee :	50.00
Service Deposit (if required):	0.00
Total if we shut off your service:	\$ 3,075.79

If your service is shut off for non-payment, after making the required payment you must contact Aqua at 877-987-2782 on schedule to have your service reconnected. Your service will be reconnected in accordance with your state approved utility regulations. In most cases service will not be restored until the next business day after your required payment amount has been confirmed.

If you have questions or need more information, please call us. If you are not satisfied after you talk to us, you may file a complaint with the Pennsylvania Public Utility Commission by calling 1(800) 692-7380 toll free, or by writing to P.O. Box 32 Harrisburg, PA 17105-3265. The Pennsylvania Public Utility Commission will delay the shut off if you file the complaint before the shut off date.

IMPORTANT NOTICE: SEE REVERSE SIDE FOR OTHER INFORMATION

Keep top portion for your records,
Return this portion with your payment.

Service To:
DONNA WHITE
0130 MARGATE RD
UPPER DARBY, PA 19082-4603

PAP515-A-4

AQUA

Aqua Pennsylvania, Inc.
PO Box 328 • BRYN MAWR, PA 19010-0328

URGENT NOTICE - OPEN IMMEDIATELY

Seq=1835 Cyo= 1up=972969 PC=T

*****AUTO**3-DIGIT 190 C 8 P 13
DONNA WHITE
130 MARGATE RD
UPPER DARBY PA 19082-4603



Account Number
000488018 0239125

Total Amount Due Due Date
\$ 3,025.79 PAST DUE

Amount Enclosed
\$,

Please make check payable to Aqua PA.
Print your account number on your check, then
mail to address on back.

00048801802391250000003025798

8/10/11



6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES
NO

in past which w/my disabilities against ex-

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)
NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

also I AM paying for 3 mos of water estimated (very high) upon moving into 130 Margate + Not notified of broken Meter

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

9/2/11

E-mail Address (If Known) NONE

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification: I, Donna White, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Donna White (Signature) 3/7/11 (Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

10 8 11

9. You must sign your complaint.

In Section Nine (9) of the formal complaint, you **must** print or type your name in the space provided in the verification paragraph, and you **must** sign and date your formal complaint form on the lines in this Section. If a complainant is a corporation or association, the verification must be signed by an authorized officer or other authorized employee. If you do not sign the formal complaint form, the Commission will not accept it.

10. Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
---	--

Keep a copy of your complaint for your records.

Facsimiles and/or electronic filings of the complaint form will not be accepted.

11-27-11