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File #: 2657/147386

June 16, 2011

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

RE: Walter Painter and Donna Painter v. Aqua Pennsylvania, Inc.
Docket No. C-2011-2239556

Dear Secretary Chiavetta:

Enclosed please find the Motion of Aqua Pennsylvania, Inc. to Stay the Hearing Date Pending Disposition of Summary Motions for the above-referenced proceeding. Copies will be provided as indicated on the certificate of service.

Respectfully Submitted,

Christopher T. Wright

CTW/skr

Enclosure

cc: Certificate of Service
Kimberly A. Joyce
Honorable Conrad A. Johnson

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Walter Painter, Donna Painter, and	:	
Others Similarly Situated,	:	
	:	
Complainants,	:	
	:	Docket No. C-2011-2239556
v.	:	
	:	
Aqua Pennsylvania, Inc.,	:	
	:	
Respondent.	:	

**MOTION OF AQUA PENNSYLVANIA, INC. TO STAY THE HEARING
DATE PENDING DISPOSITION OF SUMMARY MOTIONS**

TO ADMINISTRATIVE LAW JUDGE
CONRAD A. JOHNSON:

AND NOW, comes Aqua Pennsylvania, Inc. (“Aqua”), by and through its attorneys, Post & Schell, P.C., and files this Motion to Stay the Hearing Date pursuant to Section 5.103(a) of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.103(a), and requests that the Hearing Date be stayed indefinitely pending the disposition of a forthcoming motion that may summarily resolve the above-captioned matter in its entirety. In support thereof, Aqua states as follow:

1. Aqua is a “public utility” subject to the Pennsylvania Public Utility Code, 66 Pa.C.S. § 101 et seq., and regulated by the Commission. Aqua provides water services pursuant to a Commission-approved tariff which governs Aqua’s rates and terms and conditions of service.

2. Complainant Donna/Walter Painter are residential water customers of Aqua, and reside at 126 Colony Drive, New Wilmington, Lawrence County, Pennsylvania 16142.

3. On or about April 21, 2011, Complainant filed the above-captioned Complaint with the Commission.

4. Aqua was served with the Complaint by a Secretarial Letter dated May 5, 2011.

5. The allegations set forth in the Complaint relate to Aqua's Distribution System Improvement Charge ("DSIC") and whether the DSIC should be billed on a "services rendered" or "bills rendered" basis.

6. On May 25, 2011, Aqua filed an Answer and New Matter to the Complaint.

7. By Prehearing Order dated May 31, 2011, Administrative Law Judge Conrad A. Johnson ("ALJ") scheduled an initial hearing in this matter for June 30, 2011.

8. On June 6, 2011, Complainant filed a Motion for Change of Hearing Date. Contemporaneously herewith, Aqua is filing and serving an Answer to Complainant's Motion.

9. Pursuant to Section 5.63 of the Commission's regulations, Complainant's reply to Aqua's New Matter is due on or before June 14, 2011. As of the date of this Motion, Aqua has not been served with Complainant's reply to Aqua's New Matter.

10. Upon receipt of Complainant's reply to Aqua's New Matter, Aqua will file a motion for judgment on the pleadings. The disposition of the forthcoming motion may summarily resolve the above-captioned matter in its entirety as a matter of law.

11. Aqua notes that, on or about February 8, 2011, Counsel for Complainant filed a substantially similar complaint against the Pennsylvania American Water Company ("PAWC"). *See Pettko v. Pennsylvania American Water Company*, Docket No. C-2011-2226096. Aqua further notes that currently pending before the Office of Administrative Law Judge is a motion

for judgment on the pleadings filed on behalf of PAWC on March 23, 2011, requesting that the complaint be dismissed in its entirety as a matter of law.

12. Because Aqua's forthcoming motion for judgment on the pleadings may ultimately resolve the above-captioned matter in its entirety, Aqua is herein requesting that the Hearing Date for this matter be stayed indefinitely pending the disposition of the forthcoming motion.

13. An indefinite stay of the Hearing Date until the resolution of the forthcoming motion for judgment on the pleadings will help the parties avoid the costs of preparing for an evidentiary hearing that ultimately may not occur. Further, an indefinite stay of the Hearing Date will ensure that the Commission has sufficient time to fully consider and evaluate the merits of the motion. Finally, an indefinite stay of the Hearing Date may provide an opportunity for resolution of the motion for judgment on the pleadings in the above-discussed PAWC matter, which may facilitate the Commission in reaching fair and consistent results in substantially similar matters.

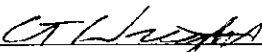
14. To the extent that the disposition of the forthcoming motion does not fully resolve all issues in this matter, the Hearing Date can be rescheduled for a later to-be-determined date, following an initial prehearing conference pursuant to Section 5.222 of the Commission's regulations, 52 Pa. Code § 5.222. An initial prehearing conference will allow the parties and the Administrative Law Judge to establish an appropriate procedural schedule to address any remaining issues following the disposition of Aqua's forthcoming motion for judgment on the pleadings.

15. Pursuant to Your Honor's Prehearing Order dated May 21, 2011, on June 14, 2011, Counsel for Aqua contacted Counsel for Complainant regarding Aqua's request to stay the

Hearing Date pending the disposition of forthcoming motions that may summarily resolve the above-captioned matter in its entirety. Counsel for Complainant indicated that Complainant did not oppose the request to stay the Hearing Date indefinitely.

WHEREFORE, Aqua Pennsylvania, Inc. respectfully requests that Administrative Law Judge Conrad A. Johnson enter an order: (1) denying Complainant's Motion for Change of Hearing Date; and (2) granting the Motion of Aqua Pennsylvania, Inc. and staying the Hearing Date pending the disposition of forthcoming motions that may summarily resolve the above-captioned matter in its entirety.

Respectfully submitted,



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David P. Zambito (ID # 80017)
Christopher T. Wright (ID # 203412)
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Of Counsel:

Post & Schell, P.C.

Date: June 16, 2011

Attorneys for Aqua Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Walter Painter, Donna Painter, and	:	
Others Similarly Situated,	:	
	:	
Complainants,	:	
	:	Docket No. C-2011-2239556
v.	:	
	:	
Aqua Pennsylvania, Inc.,	:	
	:	
Respondent.	:	

ORDER

Upon consideration of the Motion to Stay the Hearing Date filed by Aqua Pennsylvania, Inc. on June 16, 2011;

IT IS HEREBY ORDRED THAT:

1. The Hearing Date in the above-captioned matter is hereby stayed indefinitely pending the full and final disposition of any summary motions that could dispose of this matter in its entirety; and

2. To the extent that the disposition of any summary motions does not fully resolve all issues in this matter, the Hearing Date shall be rescheduled for a later to-be-determined date, following an initial prehearing conference pursuant 52 Pa. Code § 5.222.

Dated: _____

Administrative Law Judge
Conrad A. Johnson

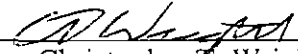
CERTIFICATE OF SERVICE

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

VIA E-MAIL & FIRST CLASS MAIL

Patrick K. Cavanaugh, Esquire
Del Sole Cavanaugh Stroyd LLC
The Waterfront building, Suite 300
200 First Avenue
Pittsburgh, PA 15222

Date: June 16, 2011



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