

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

January 27, 2012

Honorable Angela T. Jones
Honorable Darlene D. Heep
Office of Administrative Law Judge
Pa. Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

Re: Pa. Public Utility Commission
v.
Aqua Pennsylvania, Inc.
Docket No. R-2011-2267958

Dear Judge Jones and Judge Heep:

Enclosed please find copies of the Prehearing Memorandum of the Office of Consumer Advocate in the above-referenced proceeding.

The original has been filed with the Secretary's Office and copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Shaun A. Sparks".

Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney I.D. #87372

Enclosures

cc: Secretary's Office of the PUC
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2011-2267958
	:	
Aqua Pennsylvania, Inc.	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. §333, and the Prehearing Conference Order of Administrative Law Judges (ALJs) Darlene D. Heep and Angela T. Jones issued on January 20, 2012, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION AND BACKGROUND

On November 18, 2011, Aqua Pennsylvania Inc. (Aqua or Company) filed Supplement No. 115 to Tariff Water - Pa. P.U.C. No. 1 with the Public Utility Commission, to become effective January 18, 2012. Through Supplement No. 115, Aqua

requests that the Commission approve increased rates, based upon an overall operating revenue increase of approximately \$38.6 million per year or approximately 9.4% over the amount of annual revenues at present rates.. Aqua has multiple rate zones within its service territory; the rate effect of the proposed increase varies by zone under Aqua's proposed increase. In its filing, Aqua indicates that the average Main Division 5/8" residential customer uses approximately 4,745 gallons of water per month. Aqua's customer notices, however, appear to indicate that those customers use approximately 4,000 gallons per month, regardless of division. As a result, Aqua's residential customer notices appear to be generally understated as to how the proposed rate increase will affect the average residential customer bill in the various divisions.

The average Main Division 5/8" meter customer using approximately 4,745 gallons per month would experience a bill \$66.06 ($\$17+(\$9.560 \times 2)+(\$10.908 \times 2.745)$) at proposed rates, with Aqua's Distribution System Improvement Charge set at 0%. Currently, those customers experience a bill of \$60.15 for water service inclusive of Aqua's 7.5% DSIC.

The Company serves approximately 400,000 residential, commercial, public, industrial, public and private fire protection customers located in municipalities and territories in portions of Adams, Berks, Bradford, Bucks, Carbon, Chester, Columbia, Crawford, Cumberland, Delaware, Forest, Juniata, Lackawanna, Lawrence, Lehigh, Luzerne, Lycoming, Mercer, Montgomery, Monroe, Northampton, Northumberland,

Pike, Schuylkill, Susquehanna, Snyder, Venango, Warren, Wayne and Wyoming counties.

The Office of Consumer Advocate filed a Formal Complaint against the proposed increase on December 19, 2012. On January 12, 2012, the Commission ordered the suspension of the proposed effective date of Supplement No. 115, and assigned the proceeding to the Office of Administrative Law Judge. In accord with the Prehearing Conference Order, the OCA provides the following:

- 1) Intended issues;
- 2) Identification of witnesses and the subject matter of their testimony;
- 3) a complete proposed litigation schedule.

II. OCA ISSUES

Based upon its preliminary analysis of the Aqua filing, the OCA anticipates it will address the following topics in its testimony. The OCA also anticipates that additional issues may arise upon receipt and analysis of complete answers to OCA interrogatories. The OCA reserves the opportunity to present any new or unanticipated issues in accord with the procedural schedule set for this matter.

A. Rate of Return

1. Cost of Common Equity: The OCA will perform a detailed analysis

of the cost of common equity claimed by Aqua. The OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim. The OCA will examine the Company's claimed risk profile to determine if it supports the claimed cost of equity. The OCA will demonstrate that various discretionary upward adjustments sought by Aqua are without merit and contrary to the public interest.

2. Capital Structure: The OCA will examine whether the capital structure claimed by Aqua is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

3. Embedded Cost of Debt and Preferred Stock: The OCA will examine the embedded cost of debt and preferred stock claimed by Aqua.

4. Interest Coverage Ratios: The OCA will perform an analysis of the reasonableness of the interest coverage ratios as a test for rate of return recommendations.

B. Rate Base/Measure of Values

1. The OCA will examine the reasonableness and accuracy of the projections of Aqua related to its water utility plant in service including, but not limited to, whether Aqua will complete its test year plant as its claims and whether it accurately reflects retirements.

2. The OCA will review the Company's claim for plant additions

during the future test year to determine if the Company has demonstrated that it has incurred all such costs are prudently.

3. The OCA will investigate whether the Company's adjustment to rate base for depreciation reserve is appropriate.

4. The OCA will examine the Company's projections of non-investor supplied funds, including but not limited to, customer deposits, customer advances for construction and contributions in aid of construction.

5. The OCA will examine the Company's claim for materials and supplies.

6. The OCA will examine the Company's calculation and amount of cash working capital.

7. The OCA will review the acquisitions adjustments reflected in the filing.

8. The OCA intends to examine the reasonableness and accuracy of the Company's claimed valuation of its investment.

C. Revenues And Expenses

The OCA will examine:

1. The number of customers projected on the Company's system in the periods relevant to this proceeding is reasonable and accurate.

2. The Company's estimates of the volume of water to be sold during

future period is reasonable and accurate.

3. The Company's projection of revenues in the future test year is reasonable and accurate.

4. The salary and wage annualizations and increases included by the Company in the pro forma test year are reasonable and accurate including, but not limited to, whether the vacancies and new positions will be filled as claimed.

5. The costs associated with the accrual of retirement benefits other than pensions for the Company's employees or increased contributions to pension funds.

6. The justness and reasonableness of the Company's Employee Healthcare Expense.

7. The appropriateness of the Company's pro forma claim for rate case expense.

8. The legality and reasonableness of the Company's proposed purchased water agreement expense claims, and its request for a purchase water adjustment mechanism.

9. The reasonableness of the Company's increases for electric power purchased, and its request for a purchase power adjustment mechanism.

10. The miscellaneous other expense items which appear to be based upon company projections of future price levels.

11. The Company's request for depreciation expenses to determine whether it is just and reasonable.

12. The expense effect of billing and associated bill processing costs.

In regard to other expenses, the OCA will examine the Company's:

13. Request for expenses related to serving additional customers.

14. Customer education costs.

15. Proposed inflation adjustment.

16. Justification and amortization of new acquisition adjustments.

17. Costs incurred in its upcoming management audit.

18. Gasoline and diesel fuel contracts and purchases.

19. Insurance costs.

20. Affiliated interest charges.

21. Proposed expense amortizations.

22. Regulatory commission costs.

23. Promotional, advertising, marketing, lobbying, and political activity.

24. Operations and maintenance expenses.

25. Outside services and expenses.

D. Taxes

1. The OCA intends to raise issues related to the calculation of taxes

including, but not limited to, calculation of federal and state income taxes and the amount of those taxes included as expenses for ratemaking purposes, including an adjustment for consolidated tax savings.

2. The OCA will examine the reasonableness of the Company's proposal regarding the maintenance and repair allowance, and its claim for income and property taxes.

E. Rate Structure/Cost of Service/Rate Design

1. The OCA will examine Aqua's proposed distribution of the revenue increase among customer classes and ratemaking regions.

2. The OCA will examine whether the rate design changes proposed by Aqua are reasonable and appropriate.

3. The OCA will examine Aqua's cost of service study, including whether the data use is outdated and stale, whether the methodology is valid, and whether the allocations are reasonable.

4. The OCA will examine the reasonableness and appropriateness of Aqua's proposed tariff changes.

5. The OCA will examine the use of actual water load data to test the validity of customer class demand ratios.

F. Quality of Service

1. The OCA will examine whether Aqua's main extension and other

quality of service rules and regulations are enforced and applied in a fair and equitable manner.

2. The OCA will examine whether AQUA is providing its current and future residential customers with adequate, efficient, safe and reasonable service, including fire protection;

3. The OCA will investigate the water quality and service complaints of Aqua customers.

G. Other Issues

1. The OCA will examine Helping Hand, the Company's customer assistance program.

2. The OCA will examine any relevant environmental issues that arise as a result of the Company's operations.

3. The OCA will investigate to ensure that the Company is complying with all prior orders.

To assist it in performing its analysis, the OCA has served 5 sets of interrogatories on Aqua to date. The OCA believes that Aqua is making a good-faith effort to answer interrogatories. As a part of this Prehearing Memorandum, the OCA proposes an expedited discovery schedule in Appendix A. In addition to formal discovery, the OCA and Aqua have conducted informal discovery, and the OCA expects continued cooperation in this regard. When the discovery process is complete,

the OCA will file direct testimony setting forth the specific issues it seeks to address in this proceeding and will make specific recommendations at that time. While the OCA does not expect that discovery difficulties will develop, the OCA points out that the testimony due dates it presents in the proposed procedural schedule are contingent on timely responses to OCA discovery.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and may also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed and emailed directly to the expert witnesses responsible for the area of the case, as well as to counsel for the OCA.

Accounting/Regulatory Policy: Thomas S. Catlin
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
OCA-SERVICE-AQUA-R20112267958@paoca.org

Rate of Return: Mathew I. Kahal
Exeter Associates, Inc.
10480 Little Patuxent Parkway

Suite 300
Columbia, MD 21044
OCA-SERVICE-AQUA-R20112267958@paoca.org

Rate Design/Cost of Service: Mr. Scott Rubin, Esq.
333 Oak Lane
Bloomsburg, PA 17815
OCA-SERVICE-AQUA-R20112267958@paoca.org

Quality of Service: Glace Associates, Inc.
Consulting Engineers
Mr. Max Stoner, P.E.
3705 Trindle Road
Camp Hill, PA 17011
OCA-SERVICE-AQUA-R20112267958@paoca.org

The OCA reserves the right to call additional witnesses, as necessary. If the OCA determines that an additional witness or witnesses will be necessary for any portion of its case, it will promptly notify all parties of record and the presiding officer.

IV. PROPOSED PROCEDURAL SCHEDULE

The OCA is working with the Parties to develop an acceptable procedural schedule. A proposed schedule is attached as Schedule B. The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination.

V. PUBLIC INPUT HEARING LOCATIONS

The number of protests and formal complaints indicates significant public interest in this proceeding. The OCA respectfully requests that the Commission conduct four in-person public input hearings in Aqua's central and eastern regions and one telephonic public input hearing for Aqua's western regions. In particular, Representative Phyllis Mundy has requested a public input hearing in Kingston Township, Luzerne County. The OCA also requests that the Commission direct Aqua to advertise these public input hearings in media outlets serving each service area. The OCA would also request the opportunity to review the announcements prior to publication.

VI. REPRESENTATION

The OCA will be represented in this case by Senior Assistant Consumer Advocate Dianne E. Dusman and Assistant Consumer Advocate Shaun A. Sparks.

Please provide electronic and hard copy service as follows:

Shaun A. Sparks
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
OCA-SERVICE-AQUA-R20112267958@paoca.org

Respectfully submitted,



Dianne E. Dusman

Senior Assistant Consumer Advocate

Shaun A. Sparks

Assistant Consumer Advocate

For:

Irwin A. Popowsky

Consumer Advocate

Office of Consumer Advocate

555 Walnut Street

Forum Place, 5th Floor

Harrisburg, PA 17101-1923

(717) 783-5048

DATED: January 27, 2012

APPENDIX A

Proposed Order For Expedited Discovery

Discovery must be conducted according to the Commission's rules and regulations, subject to the following modifications for an expedited discovery period. Because the period for discovery is limited, a shortened discovery response time is appropriate in this proceeding. Therefore, the following modifications will apply:

- A. Answers to written interrogatories will be served in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories will be communicated orally within three (3) days of service; unresolved objections in writing within five (5) days of service of interrogatories.
- C. Propounding parties will file Motions to dismiss objections and/or direct the answering of interrogatories within three (3) days of service of written objections.
- D. Responding parties will file Answers to motions to dismiss objections and/or direct the answering of interrogatories within three (3) days of service of such motions.
- E. Rulings over such motions will be issued, if possible, within seven (7) days of filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within ten (10) calendar days.
- G. Requests for admission will be deemed admitted unless answered or objected to in accord with B,C, and D above.
- H. Answers to on-the-record data requests will be served in-hand within seven (7) calendar days of the request.

APPENDIX B

Proposed Litigation Schedule

Prehearing	Monday, January 30, 2012
Intervenor Direct	Friday, February 17, 2012
Public Input Hearings	Last week Feb. - First week Mar.
Rebuttal	
Rate of Return	Monday, March 12, 2012
All Other	Monday, March 19, 2012
Intervenor Surrebuttal	
Rate of Return	Wednesday, March 28, 2012
All Other	Thursday, April 05, 2012
Hearings	
Rate of Return	Tuesday, April 03, 2012
Revenue Requirement	Monday, April 09, 2012
Cost of Service	Tuesday, April 10, 2012
Rate Design	Tuesday, April 10, 2012
Quality of Service	Tuesday, April 10, 2012
Initial Brief	Thursday, May 03, 2012
Reply Brief	Monday, May 14, 2012

APPENDIX C

AQUA PENNSYLVANIA, INC PROPOSED PUBLIC INPUT SCHEDULE

Based on the numbers of protests, formal complaints, and letters and calls to the OCA, the OCA suggests that the Commission conduct public input hearings in the followings locations.

1. Luzerne County

An afternoon or evening hearing in the Kingston Township Municipal Building; 180 East Center Street, Shavertown, PA 18708-1514, upon request of Representative Phyllis Mundy.

2. Delaware County

One afternoon or evening hearing in Radnor, PA at the Radnor Township Municipal Building;

3. Chester County

One afternoon or evening hearing in East Goshen Township. The Board of Supervisors there kindly offered the use of the township building for this purpose.

4. Montgomery County

One afternoon or evening hearing in Hatboro, PA at Hatboro's Loller municipal building

5. Northwest Region - Telephonic

A telephonic morning or afternoon hearing for consumers in Crawford, Mercer, Lawrence, Venango, Warren, and Forest Counties.

The OCA will work with the parties and the PUC to develop specific dates, times and locations for public input hearings.

APPENDIX C

**AQUA PENNSYLVANIA, INC
PROPOSED PUBLIC INPUT SCHEDULE**

DATE	TIME	VENUE	LOCATION	CONTACT	TELEPHONE	NOTES
	7:00 PM	Shavertown, PA Luzerne Co.	Kingston Twp. Municipal Building	Kathleen Sebastian	(570) 696-3809	Application required*
	1:00 PM	Radnor PA Delaware Co.	Radnor Twp. Bldg	Jim Doling	(610) 688-5600	Application required*
	7:00 PM	Hatboro Borough Montgomery Co.	Loller Building 414 South York Road, Hatboro, Pa 19040	Diane Hegele	(215) 443-9100	
	7:00 PM	East Goshen Chester Co.	East Goshen Twp. Bldg, 1580 Paoli Pike W. Chester, PA 19380	Joanne Morgan	(610) 692-7171	
	10 AM -12 PM or 1:30 PM - 3:30 PM	Western Divisions Crawford, Mercer, Lawrence, Venango, Warren, and Forest Co.	Aqua Headquarters	Kim Joyce	(610) 645-1077	

*The OCA will provide the application forms to the assigned scheduling personnel

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission

v.

Aqua Pennsylvania, Inc.

Docket No. R-2011-2267958

I hereby certify that I have this day served a true copy of the foregoing document, Prehearing Memorandum of the Office of Consumer Advocate, upon parties of record in this proceeding 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 27th day of January 2012.

SERVICE BY E-MAIL AND HAND DELIVERY

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17101

SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Kimberly A. Joyce
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19101

Thomas P. Gadsden, Esquire
Anthony C. DeCusatis, Esquire
Brooke E. Leach, Esquire
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103

Daniel G. Asmus
Assistant Small Business Advocate
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Brian Kalcic
Excel Consulting
225 South Meramec Avenue - #720-T
St. Louis, MO 63105

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Emilio Rende
108 Jefferson Street
Bala Cynwyd, PA 19004

Daniel H. McElreavey
27 Pleasant Road
Broomall, PA 19008

Thomas E. Pektas
233 Kutenai Trail
Mercer, PA 16137

Said Shafik
507 Larchwood Avenue
Upper Darby, PA 19082

Rikki Renz
202 Windsor Avenue
Melrose Park, PA 19027

Jerome Linden
201 Cornell Drive
Bryn Mawr, PA 19010

William Whiting
Kathleen Whiting
11879 Lake Drive
Conneaut Lake, PA 16316

Robert Curtius
949 Foss Avenue
Drexel Hill, PA 19026

John Dillon
485 N. Buhl Farm Drive
Hermitage, PA 16148

Laurence Colfer
609 E. Pleasant Grove Road
West Chester, PA 19382-7452

Michael Silvestri
709 14th Avenue
Prospect Park, PA 19076

Arnold Kring
83 Winterberry Drive
Downingtown, PA 19335

Linda Palmisano
508 Towanda Street
White Haven, PA 18661

Barry D. Pollard
128 North Wayne Street
West Chester, PA 19380

Stanley Lemond
2 Whitesell Court
Summit, NJ 079014

David M. Jarrett, Borough Manager
Borough of Sayre
110 W. Packer Avenue
Sayre, PA 18840


Dianne E. Dusman
Senior Assistant Consumer Advocate
PA Attorney I.D. #38308
Email: DDusman@paoca.org
Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney I.D. #87372
Email: SSparks@paoca.org
Counsel for
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152 150931