

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
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IRWINA. POPOWSKY
Consumer Advocate

April 3, 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 a copy of a Motion to Compel in the above-referenced proceeding. The OCA is serving this document on behalf of and as a courtesy to Mr. Jerome Linden.

The original has been forwarded to Secretary Chiavetta for filing and copies have been served upon parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in black ink that reads "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

154684.doc

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 Motion to Compel Answers to Jerome Linden Interrogatories, Set 1 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 3rd day of April 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, Esquire
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19101

Thomas P. Gadsden, Esquire
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Brooke E. Leach, Esquire
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201 Cornell Drive
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Dianne E. Dusman
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

MOTION TO COMPEL ANSWERS
TO JEROME LINDEN
INTERROGATORIES SET 1

I. INTRODUCTION

Pursuant to 52 Pa. Code §§ 5.342(e), 5.103, and 5.331 Mr. Jerome Linden hereby moves that the Presiding Officer direct Aqua Pennsylvania Inc., (Aqua) to provide the information requested in Linden Interrogatories Set 1.

Mr. Linden filed timely and appropriate discovery (Linden Set 1) in this matter on March 21, 2012. Aqua did not file objections and has not done so to date. Responses to Mr. Linden Set 1 were due on April 2, 2012. Mr. Linden received no responses or communications from Aqua regarding this matter.

Given that Mr. Linden was entitled to discovery responses to prepare his surrebuttal testimony, Mr. Linden therefore moves that the Presiding Officer compel Aqua to Answer Mr. Linden Set 1 immediately, and to extend Mr. Linden's surrebuttal deadline to Tuesday, April 10, 2012.

II. MOTION TO COMPEL

Mr. Linden provided for service of Mr. Linden Set 1 on Aqua on March 21, 2012. Mr. Linden Set 1 consists of one (1) question with two subparts seeking identification and information on Aqua America subsidiaries and SEC filings related to the same. A copy of Mr. Linden Set 1 is attached.

Aqua has yet to respond to Mr. Linden Set 1 in any manner. The Commonwealth Court of Pennsylvania writes, "[d]iscovery itself is designed to promote free sharing of information so as to narrow the issues and limit unfair surprise. It is a tool which serves each litigant and promotes judicial economy." See Pittsburgh Bd. of Public Educ. v. M.J.N. by N.J., 105 Pa. Commw. Ct. 397, 403, 524 A.2d 1385, 1388. Mr. Linden is attempting to obtain relevant and discoverable information, and Mr. Linden requires the requested information before Mr. Linden drafts testimony central to his case in chief. Mr. Linden is well within the Commission's regulations to seek the requested information. See 52 Pa. Code § 5.331; 52 Pa. Code § 63.71 et seq.

Section 5.342 of the Commission's rules provide that parties must timely answer interrogatories. In this instance, Aqua filed no objections and the due date for Linden Set 1, under the revised discovery response schedule for this proceeding, was April 2, 2012. Mr. Linden seeks this information to support its efforts to timely analyze this matter. Mr. Linden therefore requests that the Presiding Officer direct Aqua to answer Linden Set 1 immediately upon the Presiding Officer's granting of this Motion. Mr. Linden also requests that the due date for his surrebuttal testimony be extended to April 10, 2012.

III. CONCLUSION

From the foregoing, Mr. Linden's requests for information are relevant, reasonable and sought in good faith in reference to Aqua's rate filing. Mr. Linden respectfully requests that the Presiding Officer compel Aqua to provide the requested information, and to provide Mr. Linden with additional time to prepare his surrebuttal testimony because of Aqua's delay in responding to Linden Set 1.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jerome Linden". The signature is written in black ink and is positioned to the right of the typed name below.

Jerome Linden

Dated: April 3, 2012

COMMONWEALTH OF PENNSYLVANIA



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IRWINA. POPOWSKY
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FAX (717) 783-7152
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March 21, 2012

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

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

Dear Ms. Joyce:

Enclosed you will find two copies of Mr. Jerome Linden's Interrogatories, Set 1 in the above-referenced proceeding. The Office of Consumer Advocate is filing this document on behalf of and as a courtesy to Mr. Linden.

By copy of this letter, copies of these interrogatories have been served upon all parties. A certificate of service showing service of this document on all parties has been filed with Secretary Chiavetta of the Pennsylvania Public Utility Commission as required by 52 Pa. Code §5.341(b).

Sincerely,

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 Chiavetta (letter and Certificate of Service only)
Certificate of Service

154237

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION :
 :
 v. : DOCKET NO. R-2011-2267958
 :
 AQUA PENNSYLVANIA, INC. :

INTERROGATORIES OF JEROME LINDEN
SET 1

Pursuant to 52 Pa. Code §5.341, Jerome Linden hereby propounds the following Interrogatories to Aqua Pennsylvania, Inc. to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of the Company. Each interrogatory is to be verified by the responding witness in accordance with 52 Pa. Code §5.342(a)(6).

DATED: March 21, 2012

Instructions

- 1) These interrogatories shall be construed as a continuing request. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to the Respondent after the answers hereto are filed.
- 2) Restate the interrogatory immediately preceding each response.
- 3) Identify the name, title, and business address of each person(s) providing each response.
- 4) Provide the date on which the response was created.
- 5) Divulge all information that is within the knowledge, possession, control, or custody of Respondent or may be reasonably ascertained thereby. The term "Aqua Pennsylvania, Inc." "Aqua" or "the Company," or "you," as used herein includes Aqua Pennsylvania, Inc., its attorneys, agents, employees, contractors, or other representatives.
- 6) Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witnesses knowledge, information and belief.
- 7) As used herein the word "document" or "workpaper" includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium including computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:
 - a) notations of any sort concerning conversations, telephone calls, meetings or other communications;
 - b) bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys;
 - c) worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

Interrogatories of Mr. Jerome Linden
SET 1

1. With reference to the March 19, 2012 Rebuttal Testimony of David P. Smeltzer, page 16, please provide the following for each of the 60 subsidiaries and for Aqua America in total.
 - A. For each Calendar Year 2009, 2010 and 2011:
 - a. Name of Subsidiary
 - b. State of Operation (e.g. Pennsylvania, New Jersey)
 - c. Total Revenue
 - d. Total Expenses
 - e. Net Income
 - f. Total Equity
 - g. Return on Equity
 - h. Is the subsidiary regulated?
 - B. Please show any consolidations and eliminations required to reconcile the total of the subsidiaries with the information provided on the 10K for Aqua America for each year.

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, Interrogatories of Jerome Linden, Set I, 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 21st day of March 2012.

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