

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

May 25, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Exceptions in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

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

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

Enclosure

cc: Honorable Angela T. Jones
Honorable Darlene D. Heep
Office of Special Assistants
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

AQUA PENNSYLVANIA, INC.

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Docket No. R-2011-2267958

EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE

Dianne E. Dusman
Senior Assistant Consumer Advocate
PA Attorney ID #38308
Email: DDusman@paoca.org

Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney ID #87372
Email: Ssparks@paoca.org

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
DATED: May 25, 2012
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I. INTRODUCTION

On May 18, 2012, the Pennsylvania Public Utility Commission served the Office of Consumer Advocate (OCA) with the Recommended Decision (RD) of Administrative Law Judges Angela T. Jones and Darlene D. Heep (ALJs), in the above-captioned matter. While the RD approves the Settlement in this matter, the OCA respectfully submits that the RD contains statements that misapprehend the nature of the settlement as to return on equity. The Commission should accept the RD, but should disregard that portion of the RD. The OCA therefore submits this limited exception for the Commission's consideration.

II. EXCEPTION No. 1: The implied return on equity calculation is in error, constitutes extra-record evidence and should be disregarded. (R.D. 38-39; R.D. Attachment 1).

To consider the reasonableness of the 10.2% return on equity (ROE) stipulated for future DSIC quarterly revenue and earnings calculations, the ALJs developed a "hypothetical" ROE. R.D. 38-39 and Attachment 1. As an initial matter, the ALJs correctly concluded that "we cannot correlate the Joint Settlement dollar increase of \$16.7 million with any ROE." R.D. at 39. In part for this reason, the hypothetical calculation shown in Attachment 1 would have no substantive effect on the Settlement terms, if the Commission were to approve the Settlement without modification. Nevertheless, ROE was a contested issue and the Parties expressly avoided any such calculation in the Settlement, as is typical of base rate case settlements in which the

parties agree upon the overall revenue requirement, may not necessarily agree on the specific components of that overall number. The agreed-upon revenue requirement in the settlement resolves the signatory Parties' differences of opinion on an overall basis regarding the appropriate ROE, rate base, revenue and expense claims, without specifying dollar amounts for any or each of those claims.

Rate case settlements contain many different assumptions based on how opposing parties evaluate the strengths and weaknesses of myriad adjustments and recommendations. Attachment 1 to the RD attempts to calculate a de facto return on equity based upon Aqua's requested 8.77% overall rate of return and rate base valuation. Neither the Settlement nor the evidentiary record, however, establish dollar amounts for Aqua's final rate base valuation, overall rate of return or other claims in support of its increase. The exclusion of these items is not by chance; rather, as noted above, it is in the nature of a comprehensive rate case settlement not to specify dollar amounts for the various components in the ratemaking formula.

The OCA would note that the Commission treated a similar issue in Pa. P.U.C. v. Aqua PA, Docket No. R-2009-2132019 (June 16, 2009). The Commission stated, in pertinent part, as follows:

In considering the proposed Joint Settlement, we are determining, *inter alia*, whether an increase of \$26.3 million in annual operating revenue is in the public interest without making a determination of any specific components that may have led to the calculation of the specific revenue requirement. Consequently, we are unable to make any

determination regarding the rate of return on equity that Aqua may ultimately realize from the rates adopted under the proposed Settlement. According we cannot adopt the ALJ's finding that an estimated 10.5% rate of return that may be the result of the proposed Joint Settlement is preferable to the *pro forma* rate of return granted in Aqua's prior rate proceeding.

Id. at 26-27 (emphasis added). The OCA urges the Commission to take the same approach in the instant case, *i.e.*, to disregard the ALJs' hypothetical return on equity calculation based on the settled revenue requirement number.

III. CONCLUSION

For all of the reasons discussed above, the Office of Consumer Advocate respectfully requests that the Commission approve the Settlement without modification, in accord with these Exceptions.



Dianne E. Dusman
Senior Assistant Consumer Advocate
PA Attorney ID #38308
Email: DDusman@paoca.org
Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney ID #87372
Email: Ssparks@paoca.org

Counsel for Irwin A. Popowsky,
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101
Phone: (717) 783-5048
Fax: (717) 783-7152

DATED: May 25, 2012
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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 Exceptions 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 25th day of May 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

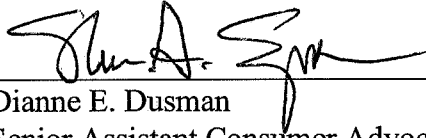
Thomas P. Gadsden, Esquire
Anthony C. DeCusatis, Esquire
Brooke E. Leach, Esquire
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103
Attorneys for Aqua Pennsylvania, Inc.

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

Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
McNees Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Attorneys for Aqua LUG

Jerome Linden
201 Cornell Drive
Bryn Mawr, PA 19010
jerrylinden@yahoo.com

Robert Curtius
949 Foss Avenue
Drexel Hill, PA 19026
(BY FIRST CLASS MAIL ONLY)



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

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