

January 8, 2014

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2013-2369043
Arnetta Archer Minto v. Aqua Pennsylvania, Inc.
Motion to Strike of Aqua PA**

Dear Secretary Chiavetta:

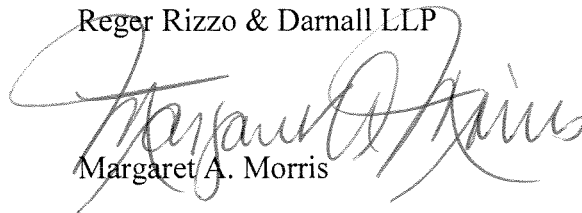
Attached for filing is the Motion to Strike of Aqua Pennsylvania, Inc. the untimely responsive pleading filed by Arnetta Archer Minto in the above captioned proceedings.

A copy of the Motion to Strike has been provided to counsel for the Complainant in the manner indicated on the attached Certificate of Service.

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

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Enclosure

cc: The Honorable Christopher P. Pell [w/enc.]
Mary McFall Hopper, Esquire, Aqua Pennsylvania Inc. [w/enc.]
Gerard K. Schrom, Esquire, Schrom, Schaffer & Botel, PC [w/enc.]

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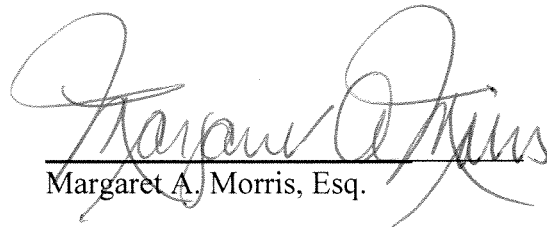
CERTIFICATE OF SERVICE

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

Via First Class and Electronic Mail

Gerard K. Schrom, Esquire
Schrom, Schaffer & Botel, PC
4 W. Front Street
Media, PA 19063
gschrom@schromandshaffer.com

Dated: January 8, 2014


Margaret A. Morris, Esq.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ARNETTA ARCHER MINTO :
v. : DOCKET NO. C-2013-2369043
:
AQUA PENNSYLVANIA, INC. :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103 (b), you are hereby notified that if you do not file a written response to the enclosed Motion to Strike within twenty (20) days from service of this Notice, the facts set forth by Aqua Pennsylvania, Inc. in the Motion may be granted. All pleadings, such as an Answer to the Motion to Strike, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Aqua Pennsylvania, Inc., and Administrative Law Judge Christopher C. Pell.

File with:

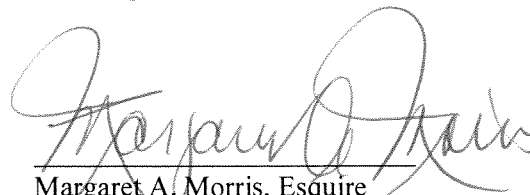
Secretary Rosemary Chiavetta, Esq.
Pennsylvania Public Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

The Honorable Christopher C. Pell
Pennsylvania Public Utility Commission
801 Market Street
Suite 4063
Philadelphia, PA 19107

Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Date: January 8, 2014



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(215) 495-6600
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Counsel for Aqua Pennsylvania, Inc.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ARNETTA C. ARCHER MINTO	:	
	:	
v.	:	Docket No. C-2013-2369043
	:	
	:	
AQUA PENNSYLVANIA, INC.	:	

MOTION TO STRIKE ARNETTA ARCHER MINTO'S UNTIMELY RESPONSE TO AQUA PENNSYLVANIA, INC.'S MOTION FOR SUMMARY JUDGEMENT

NOW COMES Aqua Pennsylvania, Inc. (Aqua) pursuant to 52 Pa. Code §5.103 moves to strike in its entirety the untimely Response in Opposition to Aqua's Motion for Summary Judgment filed on December 27, 2013, by Arnetta Archer Minto (Complainant). In support thereof, Aqua avers as follows:

1. On November 13, 2013, a hearing was held before the Honorable Christopher P. Pell (Judge Pell) at which time the Aqua presented its oral Motion for Summary Judgment. Judge Pell directed Aqua to reduce its arguments to a written motion. Aqua was directed to file its motion on or before December 2, 2013, the responsive pleading was to be filed within twenty days, i.e., on or before December 23, 2013. Tr. 38.

2. On December 2, 2013, Aqua properly filed its Motion for Summary Judgment (Motion) including the requisite Notice to Plead advising Complainant's counsel that a response was required within 20 days pursuant to 52 Pa. Code §5.103(b).

3. On December 27, 2013, Complainant's counsel filed his Response in Opposition to Aqua's Motion as evidenced by the Certificate of Service¹ attached to the Response. No explanation was provided for the late filing.

4. The Commission's regulations prescribe the procedure for a party to request an extension of time. The time fixed or the period of time prescribed may for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. 52 Pa. Code §1.15 (a). Requests for an extension of time to file a responsive pleading is required to be made by written motion, timely filed with the Commission, stating the facts supporting the requested extension. 52 Pa. Code §1.15(b).

5. The Complainant did not seek, nor was she granted, an extension to file her responsive pleading to Aqua's Motion.

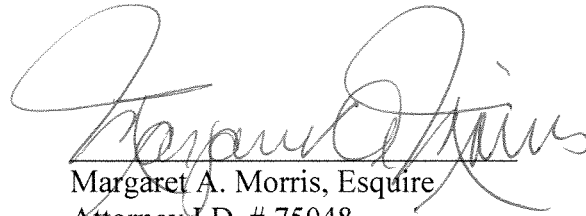
¹ Contrary to the affirmation in the Certificate of Service, Aqua was never served by fax; Aqua was served *via* email on December 28, 2013 at 11:54 AM and *via* 1st Class Mail postmarked January 4, 2014 which was received on January 6, 2014.

6. The Complainant's responsive pleading is not timely and should be stricken. Complainant's counsel has continued his pattern of ignoring the procedural requirements set forth in the Commission's Regulations throughout this proceeding².

WHEREFORE, for the foregoing reasons, Aqua Pennsylvania, Inc. respectfully requests that Complainant's untimely Response to Aqua Pennsylvania Inc.'s Motion for Summary Judgment be stricken.

Respectfully submitted,

Dated: January 8, 2014



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Counsel for Aqua Pennsylvania, Inc.

² As stated in the Motion, the Complainant's Discovery Response was not in conformance with 52 Pa. Code § 5.342.