**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania Wastewater, Inc. :

Pursuant to Sections 1102 and 1329 of the Public :

Utility Code for Approval of its Acquisition of the : A-2017-2605434

Wastewater System Assets of Limerick :

Township :

**ORDER GRANTING IN PART MOTION OF THE**

**BUREAU OF INVESTIGATION AND ENFORCEMENT**

**FOR EXPEDITED DISCOVERY**

On May 19, 2017, the Applicant, Aqua Pennsylvania Wastewater, Inc. (Aqua), filed an application with the Pennsylvania Public Utility Commission (Commission) by which it is seeking approval of: (1) the acquisition, by Aqua, of the wastewater system assets of Limerick Township, (2) the right of Aqua to begin to offer, render, furnish or supply wastewater service to the public in a portion of Limerick Township, Pennsylvania, and (3) an order approving the acquisition that includes the ratemaking rate base of the Limerick Township wastewater system assets pursuant to Section 1329(c)(2) of the Pennsylvania Public Utility Code. Receipt of the completed application was acknowledged by the Commission by Secretarial Letter dated May 31, 2017.

Pursuant to Section 1329(d)(2), the Commission is statutorily obligated to issue a final decision in this proceeding within six months. Six months from the May 31, 2017 acknowledgement date is approximately November 30, 2017. However, the last Commission public meeting prior to November 30, 2017 is November 8, 2017. Therefore, the operable deadline in this proceeding is November 8, 2017.

On June 9, 2017, the Commission’s Bureau of Investigation and Enforcement (I&E) filed a Motion to Expedite Discovery by which it is seeking to revise the Commission’s discovery regulations as described in its motion. Specifically, I&E requests that the standard 20 day response time for interrogatories and document requests be shortened to 3 days. It is also requesting to shorten other discovery-related time deadlines, such as the time for filing objections, motions to dismiss objections and compel answers, answers to same and admissions. I&E is making this request in light of the time constraints caused by the six month statutory deadline applicable to this type of proceeding, as well as the loss of additional time due to the Commission’s public meeting schedule.

By letter dated June 12, 2017, the Pennsylvania Office of Consumer Advocate (OCA) indicated that it has no objections to I&E’s motion to expedite discovery.

On June 13, 2017, Aqua filed a response to I&E’s motion. In its response, Aqua indicated it does not oppose modifications to the discovery deadlines, but requests that the modifications mirror those ordered by me in an order dated January 12, 2017 in a prior Section 1329 acquisition proceeding involving Aqua and New Garden Township at Docket No. A-2016-2580061. In that order, I directed a response time for written interrogatories and the production of documents of seven days, and corresponding shortened deadlines for other discovery-related submissions. Aqua argues that there is no material difference between the New Garden proceeding and this proceeding that would justify requiring quicker response times in this proceeding than those ordered in New Garden. In addition, Aqua requests directives that (1) Aqua may not, in every instance, be able to meet the 7 day response deadline, (2) by providing responses, Aqua is not waiving objections it may have to the admissibility of evidence or the interpretation of Section 1329, (3) the discovery modifications do not apply to discovery served on Aqua by the Bureau of Technical Utility Services (TUS), and (4) any modifications imposed apply only to discovery served after the date of issuance of an order addressing I&E’s motion.

Upon consideration of I&E’s motion and the response of Aqua, I will order the discovery modifications set forth below. I am, in effect, splitting the difference between the positions of Aqua and I&E. As correctly noted by I&E in its motion, the fact that the Commission’s only public meeting in November is on the 8th results in a loss of 22 days from the standard 6 month time frame in this proceeding. As was the case in the New Garden proceeding, the compressed time frame of Section 1329 proceedings requires all parties to endure inconvenience. In fact, the public meeting schedule in this case has resulted in approximately one week less time to complete the case than the New Garden proceeding. I suggested to the parties, as a possible way to squeeze additional time into the litigation schedule in this matter, that they agree to waive the 6 month statutory time deadline for completion of this proceeding, whereby the Commission’s final action would be issued at its December 7, 2017 public meeting, rather than at its November 8, 2017 public meeting. While this would have added only 7 days to the original 6 month deadline of November 30, 2017, it would have added 29 days to the November 8, 2017 effective litigation schedule deadline. Aqua was unwilling to agree to waive the 6 month statutory deadline. Accordingly, we are bound by the November 8th deadline.

The specific discovery modifications that are ordered in this proceeding are as follows:

1. Answers to written interrogatories shall be served in-hand within five (5) calendar days of service.
2. Objections to interrogatories shall be communicated orally within two (2) calendar days and in writing within three (3) calendar days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of the written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of such motions.
5. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within five (5) calendar days.
6. Requests for admissions will be deemed admitted unless answered or denied within three (3) calendar days of service.
7. Discovery and all discovery-related pleadings, such as objections, motions, or answers, served after 12:00 noon on a Friday or after 12:00 noon the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

The parties are directed to make every reasonable effort to comply with the discovery response times set forth in this order. I recognize, however, that Aqua may not be able to meet the expedited response time in every instance. Accordingly, in those instances when compliance is not possible despite Aqua’s best efforts, I direct Aqua to contact the requesting party to so advise and for the parties to work together to address the requests and responses on a reasonably timely basis.

As was the case in the New Garden proceeding, I will not consider the fact that Aqua has provided a response to discovery as a waiver of any objections it may seek to raise to the admissibility of evidence or the interpretation of Section 1329 at the hearing or briefing stages of this proceeding.

With respect to previously-issued discovery requests propounded on Aqua, I direct that responses be provided on or before Wednesday, June 21, 2017. On a going forward basis, the modified procedures contained herein will be in effect.

Finally, I agree with Aqua that these discovery modifications are not applicable to discovery issued to Aqua by the Commission’s Bureau of Technical Utility Services.

Dated: June 14, 2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steven K. Haas

Administrative Law Judge

**A-2017-2605434 APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.**

Updated 6/9/17

THOMAS T NIESEN ESQUIRE

THOMAS NIESEN & THOMAS LLC

212 LOCUST STREET

SUITE 600

HARRISBURG PA 17101

**717.255.7600**

*Accepts E-Service*

*Representing Aqua Pennsylvania Wastewater, Inc.*

CHRISTINE M HOOVER ESQUIRE

ERIN L GANNON ESQUIRE

555 WALNUT STREET

FORUM PLACE 5TH FLOOR

HARRISBURG PA 17101

*Accepts E-Service*

*Representing* *Office of Consumer Advocate*

CARRIE B WRIGHT ESQUIRE

PHILLIP C KIRCHNER ESQUIRE

SECOND FLOOR WEST

400 NORTH STREET

HARRISBURG PA 17120

*Accepts E-Service*

*Representing* *PA PUC BI&E Legal Technical*