*Via electronic service only due to Emergency Order at Docket No. M-2020-3019262*

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania Wastewater, : A-2021-3024267

Inc., (APW), under Sections 1102 and 1329 of :

the Pennsylvania Public Utility Code, 66 Pa C.S. :

§§ 1102(a) and 1329 (relating to enumeration of :

acts requiring certificate and valuation of :

acquired water and wastewater systems), for :

approval of: (1) the transfer, by sale, of :

substantially all of the wastewater system assets, :

properties and rights of Lower Makefield Township :

(LMT) related to its wastewater collection and :

conveyance system; (2) the right of APW to begin :

to offer or furnish wastewater service to the public :

in Lower Makefield Township, Bucks County, :

Pennsylvania; and (3) the use for ratemaking :

purposes of the lesser fair market value or the :

negotiated purchase price of the LMT assets related :

to its wastewater collection and conveyance system.:

**PREHEARING CONFERENCE ORDER**

An Initial Call-In Telephonic Prehearing Conference is scheduled in this case for September 9, 2021, at 10:00 a.m. There is a statutory six-month deadline for final Commission action in this proceeding. Cooperation among the parties throughout this proceeding will be both necessary and expected in order to meet this deadline. Accordingly, the parties are hereby directed to comply with the following requirements:

1. Parties must serve me directly (electronically at [jeffwatson@pa.gov](mailto:jeffwatson@pa.gov) and to my Legal Assistant Nick Miskanic at [nmiskanic@pa.gov](mailto:nmiskanic@pa.gov) and by hard copy if service of hard copies if possible) with any document you file in this proceeding**.** If you send any document or correspondence, you must send a copy to all other parties in the case. The current service list is attached to this order. My correct mailing address is:

Administrative Law Judge Jeffrey A. Watson

Pennsylvania Public Utility Commission

301 Fifth Avenue, Suite 220, Pittsburgh, PA 15222

2. Pursuant to 52 Pa.Code §§ 1.21-1.23, you may represent yourself if you are an individual or a sole proprietorship, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, represent you. However, if you are a partnership, corporation, limited liability company, association, joint venture, other business organization, trust, trustee, legal representative, receiver, agency, governmental entity, municipality or other political subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania or admitted *pro hac vice* represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall ensure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).

3. Failure of a party to participate in the prehearing conference shall constitute a waiver of all objections to the agreements reached, and any order or ruling with respect thereto.

4. Please review the regulation pertaining to prehearing conferences, 52 Pa.Code § 5.222. Be prepared to discuss possibilities for settlement, discovery issues, service among parties and all other procedural issues relevant to this proceeding. In addition, note subsection (d), which provides, in part:

(d) Parties and counsel will be expected to attend the conference, fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. 52 Pa.Code § 5.222.

5. As noted above, there is a statutory six-month deadline for final Commission action in this proceeding. The following schedule, which was established using the model litigation schedule set forth in the Commission’s July 21, 2016 Tentative Implementation Order at Docket No. M-2016-2543193 as a guide, will be adopted if the parties are unable to agree upon a viable alternative:

**Prehearing conference September 9, 2021**

Direct testimony of other parties September 10, 2021

Rebuttal testimony September 15, 2021

Surrebuttal testimony September 17, 2021

Evidentiary hearings September 21-22, 2021

Receipt of transcript September 23, 2021

Main Briefs October 8, 2021

**Reply Briefs October 18, 2021**

**Recommended Decision November 22, 2021**

Exceptions December 3, 2021

**Replies to Exceptions December 13, 2021**

**Public meeting January 13, 2022**

Bolded dates are likely not negotiable. Other dates may be revised at the prior to or at the prehearing conference upon agreement of all parties. The parties may request revised dates, by agreement, by submitting a request to the undersigned presiding officer prior to the prehearing conference in this preceding.

6. On or before 1:00 p.m. on September 8, 2021, each litigating party shall file and serve a prehearing memorandum which shall include a list of the issues and sub-issues the party intends to address, a statement of the party’s position on each of the issues and sub-issues listed, the names, business addresses, and telephone numbers of witnesses the party expects to call and the subject matter of each witness’ testimony. The parties are directed to confer prior to the prehearing conference to discuss and attempt to agree upon a final litigation schedule. In the event the parties are able to agree to a proposed litigation schedule, the proposal shall be set forth in the prehearing memoranda.

7. Please review the regulations relating to discovery, specifically 52 Pa.Code § 5.331(b), which provides, *inter alia*, that participants try to initiate discovery as early in the proceeding as possible, and 52 Pa.Code § 5.322, which encourages parties to exchange information on an informal basis. The parties are expected to pursue resolution of discovery issues among themselves; motions to compel should be filed only after such efforts have failed. In addition, I anticipate utilizing expedited discovery deadlines in this proceeding 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.

I would expect when compliance is not possible despite a parties best efforts, for the party who cannot comply with the deadline, despite its best efforts, 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. The parties are directed to confer prior to the prehearing conference to discuss and attempt to agree upon modifications to the discovery deadlines. In the event the parties are able to agree to proposed expedited discovery deadlines, the proposal shall be set forth in the prehearing memoranda. Otherwise, I intend to issue an order requiring the parties to comply with the discovery modifications set forth above.

Dated: August 11, 2021 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jeffrey A. Watson

Administrative Law Judge

**A-2021-3024267 - Aqua Pennsylvania Wastewater, Inc. Section 1329 Application for the Acquisition of Lower Makefield Township Wastewater System Assets**

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