



COMMONWEALTH OF PENNSYLVANIA

September 8, 2021

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Application of Aqua Pennsylvania Wastewater, Inc. pursuant to Sections 1102, 1329 and 507 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of Lower Makefield Township / Docket No. A-2021-3024267

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Parties of Record
Brian Kalcic

**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. :

**OFFICE OF SMALL BUSINESS ADVOCATE
PREHEARING MEMORANDUM**

I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business customers of utility services before the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding.

Representing the OSBA in this matter is Assistant Small Business Advocate Erin K. Fure.

Please address all correspondence in this matter as follows:

Erin K. Fure
Assistant Small Business Advocate
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Forum Place
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)
efure@pa.gov

II. FILING BACKGROUND

On May 14, 2021, Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”) filed an Application for approval of the acquisition of the wastewater system assets of Lower Makefield Township (“LMT”).

On June 9, 2021 the OSBA filed a Notice of Appearance, Notice of Intervention, and Public Statement.

The Commission’s Bureau of Investigation and Enforcement (“I&E”) filed its Notice of Appearance on June 16, 2021.

The Application was conditionally accepted by the Commission on June 25, 2021.

LMT filed a Petition to Intervene on June 29, 2021.

On July 2, 2021, the Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement.

On August 2, 2021, John Char filed a Protest opposing the Application.

The Commission accepted the Application on August 5, 2021.

On August 5, 2021, Barry Summers filed a Protest, requesting that the Application be denied.

By Order dated August 11, 2021, a telephonic prehearing conference was scheduled for

September 9, 2021 before Administrative Law Judge (“ALJ”) Jeffery A. Watson.

On August 13, 2021, Kevin Cauley and Beth Cauley jointly filed a Protest, requesting that the Application be denied.

On August 18, 2021, Aqua filed a Petition for Protective Order.

On August 24, 2021, ALJ Watson issued an Interim Order directing Protestants, Barry Summers, Kevin Cauley and Beth Cauley to file a responsive pleading or objections to the Petition Of Aqua Pennsylvania Wastewater, Inc For Protective Order by August 31, 2021.

On August 25, 2021, Jaan Pesti filed a Protest opposing the Application.

On August 27, 2021, Peter Lachance filed a Protest opposing the Application.

On September 3, 2021, ALJ Watson issued an Order granting Aqua’s Petition for Protective Order

II. IDENTIFICATION OF WITNESSES AND TENTATIVE ISSUES

Assisting in the development and presentation of the OSBA’s case in this proceeding will be:

Mr. Brian Kalcic
Excel Consulting
Suite 720-T
225 S. Meramec Avenue
St. Louis, MO 63105
(314) 725-2511
excel.consulting@sbcglobal.net

The OSBA will participate in the case to assure that the interests of small business customers of Aqua are adequately represented and protected.

As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of the Company and other parties through cross-examination of witnesses appearing for

those parties and through briefing. The OSBA will particularly focus on any issue where the impact on the interests of the small business consumers would be unjustifiably different than or disproportionate to the impact on another class of customers, or otherwise lacking in reasonableness or basic fairness. The OSBA will also focus on the rates applicable to acquired customers following the closing of the proposed acquisition, including how long such rates are proposed to remain in effect. The OSBA submits that further information is required to determine the impact on small business customers.

The OSBA reserves the right to pursue additional issues after reviewing the testimony of the parties and as issues arise throughout the proceeding.

IV. SERVICE OF DOCUMENTS

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date¹ as satisfying the in-hand requirement. The OSBA requests that electronic copies be provided to its witness identified above. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witnesses identified above.

V. SETTLEMENT

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

¹ In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 4:30 pm.

VI. HEARING AND BRIEFING SCHEDULE

The OSBA will continue to cooperate with other parties to develop a mutually acceptable procedural schedule.

Respectfully submitted,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID # 312245

Office of Small Business Advocate
555 Walnut Street, 1st Floor
Forum Place
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Dated: September 8, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania :
Wastewater, Inc. pursuant to Sections 1102, : **Docket No. A-2021-3024267**
1329 and 507 of the Public Utility Code for :
Approval of its Acquisition of the Wastewater :
System Assets of Lower Makefield Township :

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Jeffrey A. Watson
Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place
301 5th Avenue, Suite 220
Pittsburgh, PA 15222
jeffwatson@pa.gov
nmiskanic@pa.gov

Christine Maloni Hoover, Esq
Harrison Breitman, Esq
Erin Gannon, Esq.
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
choover@paoca.org
(*Counsel for OCA*)

Erika McLain, Esquire
Bureau of Investigation & Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
ermclain@pa.gov
(*Counsel for BIE*)

Thomas T. Niesen, Esquire
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
tniesen@tntlawfirm.com

Thomas Wyatt, Esq.
Matthew Olesh, Esq.
Sydney Melillo, Esq.
Obermayer Rebmann Maxwell & Hippel
Center Square West
1500 Market Street, Suite 3400
Philadelphia, PA 19102
thomas.wyatt@obermayer.com
matthew.olesh@obermayer.com
Sydney.melillo@obermayer.com

Alexander R. Stahl, Regulatory Counsel
Aqua Pennsylvania Wastewater, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
ASTahl@aquaamerica.com

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID # 312245

Dated: September 8, 2021