
Garrett P. Lent

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September 14, 2021

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission v. North Heidelberg Sewer Company and
Section 529 Investigation -North Heidelberg Sewer Company
Docket Nos. M-2018-2645983 and I-2018-3001161**

Dear Secretary Chiavetta:

Attached for filing is the Petition of Aqua Pennsylvania Wastewater, Inc. (“APW” or the “Company”) To Affirm And Clarify The Conditions Set Forth In Appendix A Of The Opinion And Order Entered February 9, 2018, At Docket No. M-281-2645983 (the “*Receivership Order*”) On An Expedited Basis. As explained in the Petition, APW currently operates the North Heidelberg Sewer Company (“NHSC”) wastewater system as Receiver, pursuant to the *Receivership Order*. The instant Petition is being filed to ensure that the Company can expeditiously remediate and rebuild NHSC wastewater treatment facilities that experienced extraordinary storm damage from the remnants of Hurricane Ida, under the *Receivership Order*. Therefore, and for the reasons detailed in the Petition, APW requests that the Pennsylvania Public Utility Commission act upon the Petition by notational vote,¹ if possible, and no later than its October 7, 2021 public meeting.

Copies of the Petition will be served upon all parties to the proceedings at Docket Nos. M-2018-2645983 and I-2018-3001161, as indicated on the Certificate of Service.

¹ See, e.g., *Joint Application of Aqua Pennsylvania, Inc.*, Docket Nos. A-2008-2074746, A-2008-2074747, 2008 Pa. PUC LEXIS 1071 (Order entered and adopted Dec. 29, 2008) (adopting a Final Order through notational voting under 4 Pa. Code § 1.43(c)); *Pa. State Senator Andrew Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. P-2018-3001453, C-2018-3001451 (Opinion and Order issued July 25, 2018).

Rosemary Chiavetta, Secretary
September 14, 2021
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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Garrett P. Lent".

Garrett P. Lent

GPL/dmc
Attachments

cc: Honorable Stephen K. Haas (*via e-mail w/attachments*)
Daniel Seaforce, Esquire (*via e-mail only*)
Patti Weidt, Esquire (*via e-mail only*)
Sean Donnelly, Esquire (*via e-mail only*)
Certificate of Service

CERTIFICATE OF SERVICE

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

VIA E-MAIL

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Dated: September 14, 2021

A handwritten signature in black ink, appearing to read "Garrett P. Lent", is written over a horizontal line.

Garrett P. Lent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. M-2018-2645983
	:	
v.	:	
	:	
North Heidelberg Sewer Company	:	
-----	:	-----
Section 529 Investigation –	:	Docket No. I-2018-3001161
North Heidelberg Sewer Company	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.572(E), ANSWERS TO PETITIONS GENERALLY ARE DUE WITHIN TEN (10) DAYS AFTER THE DATE OF SERVICE. **IN THE INSTANT PETITION, THE COMPANY REQUESTS AN EXPEDITED REVIEW OF THE PETITION BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION AND AN EXPEDITED ANSWER PERIOD OF FIVE (5) DAYS AFTER THE DATE OF SERVICE.** YOUR ANSWER SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR ANSWER SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Date: September 14, 2021

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. M-2018-2645983
	:	
v.	:	
	:	
North Heidelberg Sewer Company	:	
-----	:	-----
Section 529 Investigation –	:	Docket No. I-2018-3001161
North Heidelberg Sewer Company	:	

**PETITION OF AQUA PENNSYLVANIA WASTEWATER, INC.
TO AFFIRM AND CLARIFY THE CONDITIONS SET FORTH IN APPENDIX A OF
THE OPINION AND ORDER ENTERED FEBRUARY 9, 2018
ON AN EXPEDITED BASIS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. INTRODUCTION

Aqua Pennsylvania Wastewater, Inc. (“APW” or the “Company”) hereby petitions the Pennsylvania Public Utility Commission (“Commission”), pursuant to Section 703(g) of the Public Utility Code, 66 Pa.C.S. § 703(g), Section 5.572(d) of the Commission’s regulations, 52 Pa. Code § 5.572(d), and Paragraphs 1(t) and 3 of Appendix A to the Commission’s Opinion and Order entered February 9, 2018 in the above-captioned proceeding (the “*Receivership Order*”), to affirm and clarify certain of the conditions set forth in the *Receivership Order* and explicitly authorize APW, as Receiver, to identify and undertake investments to remediate storm damage to the North Heidelberg Sewer Company’s (“NHSC”) wastewater system. In addition, APW proposes to clarify the *Receivership Order*, to authorize APW, as Receiver, to record, defer and recover the costs of any identified investments necessary to remediate the NHSC system.

Due to the heavy rainfalls associated with the remnants of Hurricane Ida, the NHSC treatment plant and plant site have experienced storm damage that have rendered the treatment

plant and associated facilities inoperable. Consistent with its obligation to respond to system emergencies, APW has implemented a pump and haul operation of raw wastewater to continue the provision of wastewater service until emergency regulatory permits can be obtained and the system can be remediated. However, in order for the customers served by the NHSC system to continue to receive adequate, efficient, safe and reasonable service in the mid- to long-term, APW has determined that significant investments will need to be made to remediate the storm damage to the NHSC wastewater treatment system and plant site.

APW has operated the NHSC system as Receiver, consistent with conditions set forth in the *Receivership Order*. APW is authorized, *inter alia*, to:

- “Provide a listing of recommended capital improvements, identifying the capital improvements necessary to improve the performance of the system, to address or anticipate the obsolescence of portions of the system, to reduce the cost of operating the system, to provide cost savings or efficiency innovations to the system, or to comply with existing or anticipated changes to applicable laws and regulations.” *See Receivership Order*, Appendix A ¶ 1(c);
- “Respond to system emergencies by taking necessary action to ensure the continued provision of adequate, efficient, safe and reasonable service.” *See Receivership Order*, Appendix A ¶ 1(e);
- “Provide for normal routine maintenance and the provision of supplies for the system.” *See Receivership Order*, Appendix A ¶ 1(g);
- “Establish a deferred expense account for expenses incurred by NHSC that are payable to the receiver.” *See Receivership Order*, Appendix A ¶ 1(s); and
- “Establish a deferred expense account for expenses incurred by the receiver resulting from this order, including prudent and reasonable legal expenses.” *See Receivership Order*, Appendix A ¶ 2(b).

Although the *Receivership Order* explicitly authorizes APW to take necessary action to respond to system emergencies and to establish deferred expense accounts for the expenses incurred resulting from its compliance with the *Receivership Order*, APW herein requests that the Commission affirm and clarify the *Receivership Order* to explicitly authorize APW to undertake

capital investments and expenses needed to rebuild the treatment facilities of the NHSC system that have been destroyed or irreparably damaged as a result of the remnants of Hurricane Ida.

Furthermore, and in recognition of the need to efficiently and expeditiously move forward with the remediation of the NHSC wastewater system to continue to provide the customers served by this system with adequate, efficient, safe and reasonable service in the mid- and long-term, APW respectfully requests that the Commission issue an Order approving this Petition as soon as possible by notational vote,¹ and no later than its October 7, 2021 public meeting, in order to allow APW to begin expeditiously to rebuild the NHSC treatment facilities.

In support of this Petition, APW represents as follows:

II. BACKGROUND

1. APW is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania. APW is a wholly-owned subsidiary of Aqua Pennsylvania, Inc. (“Aqua PA”).

2. Aqua PA is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania. Aqua PA is a wholly-owned subsidiary of Essential Utilities, Inc. *f/k/a* Aqua America, Inc.

3. APW is a “public utility” as defined under Section 102 of the Code, 66 Pa. C.S. § 102. APW furnishes wastewater service to approximately 40,000 wastewater customer accounts throughout Pennsylvania.

¹ See, e.g., *Joint Application of Aqua Pennsylvania, Inc.*, Docket Nos. A-2008-2074746, A-2008-2074747, 2008 Pa. PUC LEXIS 1071 (Order entered and adopted Dec. 29, 2008) (adopting a Final Order through notational voting under 4 Pa. Code § 1.43(c)); *Pa. State Senator Andrew Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. P-2018-3001453, C-2018-3001451 (Opinion and Order issued July 25, 2018).

4. The names and addresses of APW’s attorneys for the purpose of this filing are as follows:

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Vice President, Regulatory and
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APW’s attorneys are authorized to receive all notices and communications regarding this Petition.

5. The NHSC system serves approximately 273 residential customers and one commercial customer in portions of North Heidelberg and Jefferson Townships in Berks County, Pennsylvania.

6. The Commission issued the *Receivership Order* in response to NHSC’s repeated failures to pay Metropolitan Edison Company (“Met-Ed”) for electric utility service, which ultimately resulted in Met-Ed initiating an action to terminate electric service to NHSC. *See Receivership Order* at 1-2.² The Commission initiated a Section 529 proceeding, including appointing a receiver, to “provide for the orderly transition of operation and perhaps ownership of

² The Commission further identified “a number of other issues that call into question NHSC’s ability to operate its wastewater system, including: (1) the failure to pay its Commission assessments; (2) the failure to file its Annual Reports; (3) whether its arrangements with affiliated entities have been approved under the Public Utility Code; (4) the validity of contracts and arrangements between or among NHSC and its affiliates; (5) whether the exchange of services, property, money, or securities between or among NHSC and its affiliates constitutes criminal conduct under Chapters 19, 21, or 33 of the Public Utility Code; and (6) whether testimony offered at hearings in this matter, particularly at the April 3, 2017 hearing, constitutes one or more criminal violations of Chapter 33 of the Public Utility Code or Chapter 49 of the Pennsylvania Crimes Code.” *See Receivership Order* at 13.

the North Heidelberg Sewer Company to a competent wastewater provider and...protect the customers of NHSC and the affected public.” *Receivership Order* at 16.

7. Under the *Receivership Order*, APW was ordered to act as Receiver for NHSC “beginning March 5, 2018 and to continue during the pendency of the Section 529 proceeding...and in accordance with Appendix A to this Order.” *Receivership Order*, Ordering Paragraph 4.

8. On April 16, 2018, the Commission opened Docket No. I-2018-3001161, pursuant to Ordering Paragraph 1 of the *Receivership Order*, and initiated an investigation into “whether the Commission should order a capable public utility to acquire North Heidelberg Sewer Company pursuant to the Commission’s October 5, 2017 Order at Docket Number P-2017-2594688 and 66 Pa. C.S. § 529 and consistent with this Order.” This proceeding remains ongoing before the Commission.

9. APW filed its Initial Status Report regarding the NHSC system on May 4, 2018. Since being appointed Receiver, APW has submitted a total of 14 Status Reports with the Commission at Docket Nos. M-2018-2645983 and I-2018-3001161. The most recent Status Report was filed on August 2, 2021.

10. Starting in the afternoon hours of September 1, 2021 and into the early morning hours of September 2, 2021, the remnants of Hurricane Ida resulted in approximately six (6) inches of rainfall for Bernville, PA, which caused severe infiltration and inflow into the NHSC system. As a result, the NHSC sanitary sewer collection system was overwhelmed, and a stormwater culvert that is partially located on the property of NHSC’s wastewater treatment plant partially collapsed. APW notes that the extent of the current blockage of the stormwater culvert is unknown at this time, and that APW is continuing to investigate the extent of the current blockage.

11. The collapse of the culvert also caused stormwater to back-up within the NHSC treatment plant site to a depth of approximately four (4) to five (5) feet. The two (2) system flow equalization tanks as well as the two (2) waste sludge holding tanks located at the plant were resultantly submerged, as was the flow equalization tank forward feed pumps' electrical control panel. The control building was also submerged approximately four (4) to five (5) feet. In addition, the diesel-powered emergency generator located on the exterior of the control building was submerged. The facility aeration blower system—including two (2) treatment process blowers and one (1) flow equalization / waste sludge holding tank aeration blower—was also submerged.

12. Furthermore, as a result of water damage to the control building, an effluent rapid sand filter tank that had a compartment with an ultraviolet (“UV”) disinfection system located inside approximately one half of the control building, floated upwards and pushed the building roof trusses up and off of the top of the building masonry walls. This action also caused the masonry walls to crack and shift in a number of locations. With the subject sand filter tank floating up and staying in this condition, the earth surrounding the filter tank collapsed into the space created by the tank floating; this resulted in the foundation footer of the southerly wall of this portion of the building being observably undermined.³ The other three walls of the room in which the filter tank is located may also have undermined foundation footers; however, it is presently not possible to observe their condition as there is no access. APW anticipates that the damaged roof will need to be removed and existing floated filter tank will need to be taken out in order to fully assess damage to the control building and to determine if its walls will need to be razed and rebuilt.

13. Since the plant treatment process and disinfection systems are presently out of service, and given that until the partially collapsed culvert is replaced there is a potential for the

³ The subject footer can be observed due to an existing garage door on this wall.

NHSC plant site to flood again in another rain event, APW implemented a pump and haul operation of raw wastewater on September 10, 2021. This pump and haul operation will continue until the culvert is replaced and the treatment process can be placed back on-line with temporarily relocated effluent UV disinfection. APW anticipates that replacement of the culvert could occur during the week of September 20, 2021, depending on the provision of emergency regulatory permits and necessary preparatory work the week of September 13, 2021. APW is currently working to attempt to temporarily reactivate the treatment process and this work will continue until the start-up of the treatment process; APW anticipates this could occur as early as the week of September 27, 2021. Work on the control building damaged by the tank floating will commence after the activation of the treatment process.

14. Attached to this Petition as **Appendix A** are true and correct copies of photographs taken at the NHSC treatment plant in the days following the event.

15. APW immediately took action as Receiver to address temporarily the impacts of the remnants of Hurricane Ida on its ability to provide adequate, efficient, safe and reasonable service to the customers served by the NHSC system. The immediate action taken by APW was implementation of a raw wastewater pump and haul operation to avert environmental harm and to protect downstream drinking water supplies, including provision of: two (2) diesel powered Godwin pumps; three (3) storage tanks to be used to store the wastewater prior to hauling it to a permitted wastewater treatment plant for proper treatment and disposal; and approximately 800 feet of temporary piping between the plant flow equalization tank and the subject storage tanks.

16. While these actions are currently permitting APW to continue to provide service to the customers served by the NHSC system, APW does not believe that either pump and haul

operation or other temporary treatment processes are a reasonable or efficient means of providing wastewater service to the customers connected to the NHSC system in the mid- and/or long-term.

17. While APW will continue to take steps as Receiver to serve NHSC system customers, it has become clear that substantial investments will be required to remediate the NHSC system to continue to provide adequate, efficient, safe and reasonable service in the future.

III. LEGAL STANDARDS

18. Section 703(g) of the Public Utility Code states:

The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

66 Pa.C.S. § 703(g).

19. Under Section 5.572(a) of the Commission's regulations:

“Petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like must be in writing and specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired.”

52 Pa. Code § 5.41(a).

20. In the *Receivership Order*, the Commission ordered APW to act as Receiver for the NHSC system and imposed the following conditions and obligations, among others, on APW:

1. a. Operate the system in compliance with all State, Federal, and local laws and regulations.
- b. Maintain any existing or necessary permits, licenses, approvals, authorizations, orders, consents, registrations, or filings.

c. Provide a listing of recommended capital improvements, identifying the capital improvements necessary to improve the performance of the system, to address or anticipate the obsolescence of portions of the system, to reduce the cost of operating the system, to provide cost savings or efficiency innovations to the system, or to comply with existing or anticipated changes to applicable laws and regulations.

...

e. Respond to system emergencies by taking necessary action to ensure the continued provision of adequate, efficient, safe and reasonable service.

...

g. Provide for normal routine maintenance and the provision of supplies for the system.

...

s. Establish a deferred expense account for expenses incurred by NHSC that are payable to the receiver.

...

2. b. Establish a deferred expense account for expenses incurred by the receiver resulting from this order, including prudent and reasonable legal expenses.

Receivership Order, Appendix A ¶¶ 1(c), (e) (g) and (s), and 2(b).

21. Furthermore, APW was authorized to:

t. Petition the Commission to add or remove any duties or responsibilities; however, the receiver must continue to fulfill all duties and responsibilities until such duties or responsibilities are removed by Commission Order or by a court with competent jurisdiction.

...

3. The Receiver may petition the Commission for modification or termination of this receivership, or to appoint another, or an additional, entity as a receiver of NHSC.

Receivership Order, Appendix A ¶¶ 1(t) and 3 (emphasis added).

IV. PROPOSAL TO AFFIRM AND CLARIFY THE RECEIVERSHIP ORDER TO PERMIT APW TO IDENTIFY AND UNDERTAKE INVESTMENTS TO REMEDIATE EXTRAORDINARY STORM DAMAGE TO THE NHSC SYSTEM

22. The *Receivership Order* clearly authorizes APW to identify necessary capital investments and improvements for the NHSC system, respond to system emergencies, and record and defer expenses associated with its operation of the NHSC system as Receiver.

23. However, as noted above, extraordinary weather events associated with the remnants of Hurricane Ida have resulted in substantial storm damage to the NHSC system. More specifically, the NHSC treatment plant and associated facilities have experienced significant storm damage that have rendered the treatment plant and other facilities inoperable and likely in need of replacement. *See Paragraphs 10-12 supra.*

24. Due to this damage, the NHSC facilities were rendered incapable of providing adequate, efficient, safe and reasonable service, and, furthermore, APW anticipates that remediating the damage will require significant investments. For example, the collapsed stormwater culvert will need to be completely replaced and a new UV disinfectant system will need to be installed. Various tanks are in need of repair or replacement, electrical components likely will need to be replaced, and there is the possibility that the control building will need to be rebuilt. APW is currently investigating the full extent of remediation actions that will be required to restore permanent service and will commit to reporting the actions and estimated costs to the Commission.

25. Furthermore, although the immediate actions taken by APW are currently allowing it to continue to provide adequate, efficient, safe and reasonable service to the customers served by the NHSC system, APW does not believe that either pump and haul operation or other

temporary treatment processes are a reasonable or efficient means of providing wastewater service to the customers connected to the NHSC system in the mid- and/or long-term.

26. APW believes that the *Receivership Order* authorizes it to make the investments necessary to repair the damaged NHSC facilities in order to continue to provide adequate, efficient, safe and reasonable service, and further authorizes APW to defer the costs of these investments for future recovery. *See Receivership Order*, Appendix A ¶¶ 1(c), (e) and (s), and 2(b).

27. Nevertheless, APW recognizes that the situation caused by the extreme weather events associated with the remnants of Hurricane Ida were extraordinary and unforeseeable, and that the extent of remediation necessitated by these events are atypical of the remediation typically contemplated for a receiver appointed under Section 529(g), 66 Pa.C.S. § 529(g), of the Public Utility Code. As such, clarification of the *Receivership Order* is requested to permit APW to (a) identify the additional, significant investments required to remediate the storm damage experienced by the NHSC system, (b) undertake the identified remediation actions to continue to provide adequate, efficient, safe and reasonable service to the customers served by the NHSC system, and/or (c) undertake additional reasonable actions not contemplated by the *Receivership Order* that may be required to continue to provide adequate, efficient, safe and reasonable service to the customers served by the NHSC system.

28. For these reasons, APW respectfully requests that the Commission affirm and clarify the *Receivership Order* to authorize APW to (a) identify the additional, significant investments required to remediate the storm damage experienced by the NHSC system, (b) undertake the identified remediation actions to continue to provide adequate, efficient, safe and reasonable service to the customers served by the NHSC system, and/or (c) undertake additional reasonable actions not contemplated by the *Receivership Order* that may be required to continue

to provide adequate, efficient, safe and reasonable service to the customers served by the NHSC system.

V. **PROPOSAL TO AFFIRM AND CLARIFY THE RECEIVERSHIP ORDER TO PERMIT APW TO DEFER AND RECOVER EXTRAORDINARY STORM DAMAGE COSTS**

29. As noted above, the *Receivership Order* also authorizes APW to:

s. Establish a deferred expense account for expenses incurred by NHSC that are payable to the receiver.

...

b. Establish a deferred expense account for expenses incurred by the receiver resulting from this order, including prudent and reasonable legal expenses.

Receivership Order, Appendix A ¶¶ 1(s), and 2(b).

30. Nevertheless, APW recognizes the unique situation resulting from the extraordinary and unforeseeable storm damage to the NHSC system. The foregoing paragraphs could be interpreted to authorize deferral and recovery of normal ongoing operating and maintenance expenditures incurred. Moreover, Paragraph 1(e), quoted above, directs the Company to list necessary capital improvements, but could be interpreted to require APW to present the capital projects to the Commission for approval. As such, the Company further herein proposes to track the costs associated with the identified capital investments necessary to remediate the storm damages to the NHSC system for deferred regulatory accounting treatment. Specifically, APW requests Commission authorization to record all costs, net of any insurance proceeds, incurred to remediate the storm damages to a regulatory asset account that will be eligible for future recovery.

31. The Commission has approved deferral of extraordinary expenses on numerous occasions, and specifically in instances of extraordinary storm damages. *See Petition of PPL Electric Utilities Corporation for Authority to Defer for Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Winter Storm Damage and to Amortize Such Losses*, Docket No. P-00052148 (Order entered Aug. 25, 2005); *Petition of PPL Electric Utilities Corporation for Authority to Defer for Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Storm Damage and to Amortize Such Losses*, 231 P.U.R.4th 521 (2004) (approving deferral of expenses associated with storm related damages); *see also Pa. P.U.C. v. Pennsylvania Power & Light Co.*, Docket No. P-00920635 (Order entered May 6, 1993) (approving deferral of transition costs under Financial Accounting Standards Board Statement of Financial Accounting Standards No. 106 (“SFAS 106”))⁴; *Petition of Pennsylvania Power & Light Co.*, Docket No. P-820367 (Order entered July 29, 1982) and *Petition of Pennsylvania Power & Light Co.*, Docket No. P-830461 (Order entered Nov. 9, 1983) (approving deferral of expenses incurred between commercial operation and rate recognition of nuclear generating units); *Petition of Mechanicsburg Water Co.*, Docket No. P-910500 (Order entered Sept. 25, 1991) (approving deferral for accounting purposes of capital and other costs associated with water treatment plant expansion); *Petition of Pennsylvania Gas & Water Co.*, Docket No. P-900454 (Order entered Sept. 5, 1990) (approving deferral of costs of four water treatment plants that were nearing completion); *Petition of Pennsylvania Gas & Water Co.*, Docket No. P-920586 (Order entered Oct. 21, 1992) (approving deferral for accounting purposes of water treatment plant costs).

⁴ The OCA appealed this decision, and the Commonwealth Court reversed the Commission with regard to the approval of recovery of costs outside of a rate proceeding. The Commonwealth Court did not reverse the decision with regard to the deferral of the SFAS 106 expenses. *Popowsky v. Pa. P.U.C.*, 164 Pa. Cmwlth. 338, 348, 642 A.2d 648, 653 (1994).

32. The Company's proposal to track and record as a regulatory asset the identified capital investments necessary to remediate the storm damages to the NHSC system meets the definition used by the Commission to determine that deferred accounting is appropriate. Indeed, the remnants of Hurricane Ida has caused, and will cause, the Company to incur expenses and capital investments that are "extraordinary, not reasonably foreseeable, and non-recurring," in association with its status as Receiver of the NHSC system.

33. The Company will also maintain records, documents, and other information necessary to demonstrate that these costs qualify for deferred recovery.

34. Therefore, and for the reasons more fully explained above, APW requests that the *Receivership Order* be clarified to authorize APW to record and defer as a regulatory asset associated with the identified capital investments necessary to remediate the storm damages to the NHSC system.

VI. REQUEST FOR EXPEDITED TREATMENT

35. APW is requesting expedited consideration of the instant Petition so that, if clarification of the *Receivership Order* is approved, APW can immediately proceed with further identifying and undertaking the investments necessary to remediate the NHSC sewer treatment plant and associated facilities. As noted above, APW is currently trucking and hauling waste for this system in order to continue to provide service to customers. However, trucking and hauling waste is not a reasonable or efficient long-term solution.

36. To aid the Commission in its expedited consideration of the instant Petition, APW requests that the answer period be shortened to five (5) days.

37. For these reasons, APW respectfully requests that the Commission issue an Order granting the Petition via notational vote,⁵ if possible, or by no later than its October 7, 2021 public meeting.

VII. NOTICE

38. Consistent with Sections 5.572(b) of the Commission's regulations, 52 Pa. Code § 5.5.572(b), APW served a copy of this Petition on all parties to the proceeding at Docket Nos. M-2018-2645983 and I-2018-3001161. The Company will also provide such additional forms of notice as the Commission may hereafter direct.

⁵ See, e.g., *Joint Application of Aqua Pennsylvania, Inc.*, Docket Nos. A-2008-2074746, A-2008-2074747, 2008 Pa. PUC LEXIS 1071 (Order entered and adopted Dec. 29, 2008) (adopting a Final Order through notational voting under 4 Pa. Code § 1.43(c)); *Pa. State Senator Andrew Dinniman v. Sunoco Pipeline, L.P.*, Docket Nos. P-2018-3001453, C-2018-3001451 (Opinion and Order issued July 25, 2018).

VIII. CONCLUSION

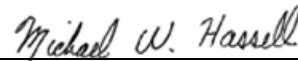
WHEREFORE, Aqua Pennsylvania Wastewater, Inc. respectfully requests that the Pennsylvania Public Utility Commission affirm and clarify the conditions set forth in Appendix A of the *Receivership Order* on an expedited basis, as described in this Petition:

- (1) to permit Aqua Pennsylvania Wastewater, Inc. to identify, list and undertake the capital investments required to fully remediate the extraordinary storm damage sustained by North Heidelberg Sewer Company, in order to continue to provide adequate, efficient, safe and reasonable service;
- (2) to grant Aqua Pennsylvania Wastewater, Inc. all necessary accounting and regulatory approvals to record the costs associated with the remediation of the North Heidelberg Sewer Company system as a regulatory asset and that such costs shall be eligible for recovery in a future base rate proceeding; and
- (3) to impose add, modify, or remove any other reasonable conditions to Aqua Pennsylvania Wastewater, Inc.'s receivership that are required to permit it to take actions necessary to continue to provide adequate, efficient, safe and reasonable service in light of the extraordinary and unforeseeable storm damage sustained by the North Heidelberg Sewer Company system.

Respectfully submitted,

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Date: September 14, 2021



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Inc.*

Appendix A



SINKHOLE LOCATION ON GOLF COURSE PROPERTY OVER TOP OF CULVERT. NHSC PROPERTY LINE AT WOODS/FENCE LINE TO THE RIGHT. EARTH WASHED INTO THE COLLAPSED CULVERT SUBSTANTIALY BLOCKING IT.



SINKHOLE APPROXIMATELY 12 FEET IN DIAMETER AND 12 FEET DEEP.



SUBMERGED WASTEWATER TREATMENT PLANT VIEW FROM EAST SIDE OF PLANT LOOKING WEST. RAILINGS ON EQ AND SLUDGE HOLDING TANKS CAN BE SEEN. GENERATOR IS TO THE LEFT OF CONTROL BUILDING DOOR.



VIEW FROM WEST LOOKING EAST OF EQ TANK IN CENTER AND SLUDGE HOLDING TO THE RIGHT AFTER FLOOD WATERS RECEDED.



SUBMERGED WASTEWATER TREATMENT PLANT VIEW FROM WEST (ENTRY) SIDE OF PLANT LOOKING EAST.



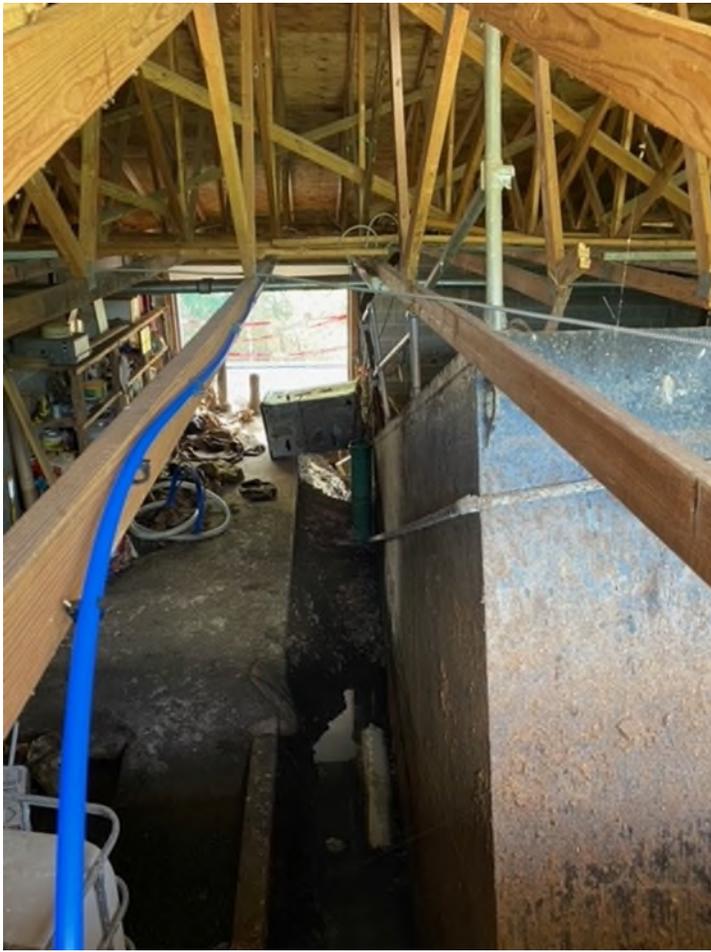
SUBMERGED WASTEWATER TREATMENT PLANT VIEW FROM SOUTHEAST SIDE OF PLANT LOOKING IN A SOUTH EASTERLY DIRECTION. GOLF COURSE CARTWAY BERM NEAR CULVERT SINK HOLE IN BACKGROUND (BEHIND WHITE CAR).



CONTROL BUILDING ROOF DAMAGE DUE TO THE FLOATING OF THE RAPID SAND FILTER TANK / ULTRAVIOLET DISINFECTION SYSTEM IN ABOUT HALF OF THE BUILDING.



RAISED UP ROOF TRUSSES AND ROOF RESULTANT FROM TANK FLOATING IN THE CONTROL BUILDING.



LOOK INSIDE THE CONTROL BLDG. FROM DAMAGED ROOF OPENING. FLOATED TANK IN RIGHT FOREGROUND.



LOOK INSIDE CONTROL BLDG. FROM GARAGE DOOR OPENING. FLOATED TANK TO THE LEFT.



VIEW INTO CONTROL BUILDING OFFICE WHILE STILL UNDER WATER.

VERIFICATION

I, Mark J. Bubel, Sr., P.E., being a Project Engineer III of Aqua Pennsylvania Wastewater, Inc., hereby state that the foregoing information is true and correct to the best of my knowledge, information, and belief and that if asked orally at a hearing in this matter my answers would be as set forth therein. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 9/14/2021



Mark J. Bubel, Sr., P.E.
Aqua Pennsylvania Wastewater, Inc.