



COMMONWEALTH OF PENNSYLVANIA

October 26, 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:

The Pennsylvania Public Utility Commission's Implementation Order at *Electronic Access to Pre-Served Testimony*, Docket No. M-2012-2331973, requires that all testimony furnished to the court reporter during a proceeding must subsequently be provided to the Secretary's Bureau.

As such, this letter will confirm that the Office of Small Business Advocate ("OSBA") has filed the Direct Testimony and Exhibit of Brian Kalcic, labeled OSBA Statement No. 1 and the Surrebuttal Testimony of Brian Kalcic labeled OSBA Statement No. 1-S on behalf of the OSBA, in the above-captioned proceeding.

All known parties were previously served with the aforementioned Testimony. If you have any questions, please contact me.

Sincerely,

/s/ Erin K. Fure

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

*Enclosures*

cc: Brian Kalcic  
Parties of Record (Cover Letter and Certificate of Service Only)



COMMONWEALTH OF PENNSYLVANIA

September 10, 2021

The Honorable Jeffrey A. Watson  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place  
301 5<sup>th</sup> Avenue, Suite 220  
Pittsburgh, PA 15222

**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 Judge Watson:

Enclosed please find the Direct Testimony and Exhibit of Brian Kalcic, labeled OSBA Statement No. 1, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

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: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)  
Brian Kalcic  
Parties of Record

**OSBA STATEMENT NO. 1**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**Direct Testimony and Exhibit of**

**BRIAN KALCIC**

**On Behalf of the**

**Pennsylvania Office of Small Business Advocate**

**Date Served: September 10, 2021**

**Date Submitted for the Record: September 29, 2021**

*Direct Testimony of Brian Kalcic*

1 **Q. Please state your name and business address.**

2 A. Brian Kalcic, 225 S. Meramec Avenue, St. Louis, Missouri 63105.

3

4 **Q. What is your occupation?**

5 A. I am an economist and consultant in the field of public utility regulation, and  
6 principal of Excel Consulting. My qualifications are described in the Appendix to  
7 this testimony.

8

9 **Q. On whose behalf are you testifying in this case?**

10 A. I am testifying on behalf of the Office of Small Business Advocate (“OSBA”),  
11 which is representing the small business customers served by Aqua Pennsylvania  
12 Wastewater, Inc. (“Aqua” or the “Company”).

13

14 **Q. What is the subject of your testimony?**

15 A. I will address certain rate provisions contained in Section 7.03 of the proposed  
16 Asset Purchase Agreement (“APA”) by and between the Township of Lower  
17 Makefield, Bucks County (“Lower Makefield” or the “Township”) and Aqua.

18

19 **Q. Please summarize your recommendations.**

20 A. Based upon my analysis of the Aqua’s filing and interrogatory responses, I  
21 recommend that the Commission:

22

- 23 • as a condition for approval of the proposed transaction, reject any  
24 base rate freeze for Lower Makefield customers that would extend

1 beyond the effective date of new rates in the Company’s first base  
2 rate case following the close of the transaction; or

- 3
- 4 • alternatively, direct Aqua to impute revenues to Lower Makefield  
5 customers, as necessary, to make up for the revenue shortfall  
6 associated with any rate increase otherwise applicable to Lower  
7 Makefield in the Company’s first base rate case following the close  
8 of the transaction.  
9

10 **Section 7.03 of the APA**  
11

12 **Q. Mr. Kalcic, what does Section 7.03 of the APA address?**

13 A. Section 7.03 addresses the current and future wastewater rates applicable to  
14 Township customers under the terms of the APA.

15

16 **Q. What are the key provisions of Section 7.03?**

17 A. The key provisions of Section 7.03 are as follows: 1) there shall be no change in  
18 the current effective rates paid by Township customers upon the close of the  
19 proposed transaction; 2) Aqua shall not implement a base rate increase for  
20 Township customers “until after the second anniversary of the Closing date” of the  
21 proposed transaction; and 3) Aqua shall apply, at and after Closing, its then-existing  
22 miscellaneous fees and charges, and rules and regulations for wastewater service as  
23 set forth in Aqua’s tariff within the Lower Makefield service area.

24

25 **Q. Does Aqua consider the APA’s provision that prohibits a rate increase for**  
26 **Township customers until after the second anniversary of the Closing date of**

1 **the proposed transaction a rate stabilization plan, as defined in Section**  
2 **1329(g), 66 Pa. C.S § 1329(g) of the Public Utility Code?**

3 A. No. On page 12 of Aqua Statement No. 1, Mr. Packer argues the rate commitment  
4 in Section 7.03 of the APA does not constitute a rate stabilization plan since  
5 “[t]here is no language in Aqua’s proposed tariff requesting that rates be held  
6 constant or phased in over a period of time after the next rate case.”  
7

8 **Q. Has Aqua explained why it agreed to freeze the Township’s rates for a period**  
9 **of two years following the Closing of the proposed transaction?**

10 A. Yes. In response to OSBA-I-1, Aqua states that “[it] believed providing a two year  
11 rate freeze, which was an option in the Request for Bids response, would make its  
12 bid competitive.”  
13

14 **Q. When does Aqua expect the proposed transaction to close, if approved by the**  
15 **Commission?**

16 A. Aqua expects the Commission to issue its Final Order in this matter in January  
17 2022, with the Closing to occur “soon after a final Commission decision.”<sup>1</sup>  
18

19 **Q. Does Aqua currently have a base rate case pending before the Commission?**

20 A. Yes. Aqua filed for an increase in water and wastewater rates on August 20, 2021,  
21 at Docket Nos. R-2021-3027385 and R-2021-3027386.  
22

---

<sup>1</sup> See Aqua’s response to OSBA-I-2.

1 **Q. How do the current rates paid by Township customers compare to those paid**  
2 **by Aqua’s existing wastewater system customers?**

3 A. The current average monthly bill of a residential customer in Lower Makefield,  
4 using three thousand six hundred gallons per month, is \$69.29.<sup>2</sup> The average  
5 monthly bill paid by residential wastewater customers located in the Company’s  
6 Rate Zone 1 service area, using the same three thousand six hundred gallons per  
7 month, is: a) \$58.36 excluding DSIC, or \$61.28 including DSIC, at present rates,  
8 and b) \$73.65 at proposed rates.<sup>3</sup> As such, the average monthly bill paid by  
9 residential customers in the Township is presently 13.1% higher than Aqua’s Rate  
10 Zone 1 equivalent residential bill, but 5.9% lower than Aqua’s proposed Rate Zone  
11 1 equivalent bill.

12  
13 **Q. Could Aqua’s commitment to freeze the base rates for Lower Makefield**  
14 **customers for two years following the Closing date hold the Township’s rates**  
15 **constant for a period of time of time *beyond* the effective date of new rates that**  
16 **results from the Company’s first base rate case following the Closing of the**  
17 **proposed transaction?**

18 A. Yes, depending on the timing of the Company’s next rate filing. For example,  
19 assuming that the Closing date of the proposed transaction were to be January 31,  
20 2022, the base rate freeze for Lower Makefield customers would remain in place  
21 until January 31, 2024. If Aqua were to file its next base rate case on or before

---

<sup>2</sup> See Aqua’s response to I&E-IV-1.

<sup>3</sup> *Id.*

1 April 30, 2024, the Township's rate freeze would extend beyond the effective date  
2 of new rates in Aqua's next rate proceeding.

3

4 **Q. Would it be appropriate to freeze Lower Makefield's rates for any period of**  
5 **time beyond the effective date of new rates in the Company's next base rate**  
6 **proceeding?**

7 A. No.

8

9 **Q. Why not?**

10 A. In the OSBA's view, *all* of the Company's base wastewater rates should be  
11 evaluated in each of Aqua's base rate proceedings. To the extent that the average  
12 rate paid in a given rate area, such as Lower Makefield, is less than the Company's  
13 system average rate for wastewater service, wastewater rates in that rate area should  
14 be subject to increase in a base rate proceeding. Moreover, all rate areas should  
15 exhibit movement toward to the system average wastewater rate in each rate case  
16 (i.e., toward cost of service), consistent with the Commission's long-standing policy  
17 of implementing single tariff pricing.

18

19 **Q. In the context of Aqua's next base rate proceeding, what would be the**  
20 **consequence of freezing the wastewater rates paid by a subset of customers**  
21 **that are, at that time, paying less than the system average rate for wastewater**  
22 **service?**

1 A. In that instance, such customers would not only continue to receive a subsidy from  
2 Aqua's remaining wastewater service customers, their annual subsidy received from  
3 general ratepayers would *increase* at the conclusion of the Company's next rate  
4 case.

5  
6 **Q. Should the Commission approve a rate freeze period for Lower Makefield**  
7 **customers that extends beyond the effective date of new rates in the**  
8 **Company's next base rate case?**

9 A. No. As a condition for approval of the proposed acquisition, the Commission  
10 should reject any rate freeze for Lower Makefield customers that extends beyond  
11 the effective date of new rates in the Company's next base rate case.

12

13 **Q. Do you have an alternative recommendation with respect to the proposed rate**  
14 **freeze for Lower Makefield customers?**

15 A. Yes. As an alternative, the Commission should direct Aqua to impute revenues to  
16 Lower Makefield customers, as necessary, to make up for the revenue shortfall  
17 associated with any rate increase otherwise applicable to Lower Makefield in the  
18 Company's first base rate case following the close of the transaction. In that way,  
19 Aqua's shareholders rather than general ratepayers would bear the cost associated  
20 with Aqua's commitment to freeze Lower Makefield's rates.

21

22 **Q. Does this conclude your direct testimony?**

23 A. Yes.

# **EXHIBIT BK-1**

## **REFERENCED INTERROGATORY RESPONSES**

**(Questions to Aqua)**

**I&E-IV-1**

**OSBA-I-1**

**OSBA-I-2**

Respondent: William C. Packer  
Date: 08/30/2021

**APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.**

**DOCKET NO. A-2021-3024267**

**BUREAU OF INVESTIGATION AND ENFORCEMENT**

**SET IV INTERROGATORIES**

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- I&E-IV-1** Provide a schedule that shows a breakdown of the charges for a residential customer that is billed monthly that uses 3,600 gallons of water per month under the following rates:
- A. Lower Makefield Township's current rates;
  - B. Aqua Pennsylvania Wastewater, Inc.'s current rates; and
  - C. Aqua Pennsylvania Wastewater, Inc.'s rates as proposed in its current base rate case at Docket Nos. R-2021-3027386.

**RESPONSE**

Please see I&E-IV-1 Attachment 1

			I&E-IV-1 Attachment 1
<b>LMT</b>	<b>Current Quarterly Charge</b>		
Base Charge	\$	160.48	
Consumption First 10,000	\$	4.37	
Consumption Second 10,000	\$	4.60	
	<b>Converted to Monthly</b>		<b>Total Monthly</b>
Base Charge Monthly	\$	53.49	\$ 69.29
Consumption First 3,333	\$	4.37	
Consumption 3,334-6,667	\$	4.60	
<b>Aqua Current</b>	<b>Rate Zone 1</b>		<b>Total Monthly</b>
Base	\$	31.00	\$ 58.36
Consumption per 1,000	\$	7.60	
<b>Aqua Proposed</b>	<b>Rate Zone 1</b>		<b>Total Monthly</b>
Base Monthly	\$	39.10	\$ 73.65
Consumption per 1,000	\$	9.598	

Respondent: William C. Packer  
Date: 08/30/2021

**APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.**

**DOCKET NO. A-2021-3024267**

**OFFICE OF SMALL BUSINESS ADVOCATE**

**SET I INTERROGATORIES**

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**OSBA-I-1** Reference Section 7.03(a) of the Asset Purchase Agreement (APA). Please explain in detail why Aqua agreed not to increase Seller's Base Rates until after the second anniversary of the Closing date.

**RESPONSE**

The Company believed providing a two year rate freeze, which was an option in the Request For Bids response, would make its bid competitive.

Respondent: William C. Packer  
Date: 08/30/2021

**APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.**

**DOCKET NO. A-2021-3024267**

**OFFICE OF SMALL BUSINESS ADVOCATE**

**SET I INTERROGATORIES**

---

**OSBA-I-2** Please provide the expected closing date of the sale of Lower Makefield's wastewater assets to Aqua.

**RESPONSE**

Closing can be dependent on a number of factors, however, at this time, this proceeding is expected to be before the Commission for decision in January 2022. Closing would be expected soon after a final Commission decision.

# **APPENDIX**

## APPENDIX

### Qualifications of Brian Kalcic

Mr. Kalcic graduated from Benedictine University with a Bachelor of Arts degree in Economics in December 1974. In May 1977 he received a Master of Arts degree in Economics from Washington University, St. Louis. In addition, he has completed all course requirements at Washington University for a Ph.D. in Economics.

From 1977 to 1982, Mr. Kalcic taught courses in economics at both Washington University and Webster University, including Microeconomic and Macroeconomic Theory, Labor Economics and Public Finance.

During 1980 and 1981, Mr. Kalcic was a consultant to the Equal Employment Opportunity Commission, St. Louis District Office. His responsibilities included data collection and organization, statistical analysis and trial testimony.

From 1982 to 1996, Mr. Kalcic was employed by the firm of Cook, Eisdorfer & Associates, Inc. During that time, he participated in the analysis of electric, gas and water utility rate case filings. His primary responsibilities included cost-of-service and economic analysis, model building, and statistical analysis.

In March 1996, Mr. Kalcic founded Excel Consulting, a consulting practice that offers business and regulatory analysis.

Mr. Kalcic has previously testified before the state regulatory commissions of Delaware, Indiana, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Texas, and also before the Bonneville Power Administration.



**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  
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Pittsburgh, PA 15222  
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/s/ Erin K. Fure

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

Dated: September 10, 2021



COMMONWEALTH OF PENNSYLVANIA

September 24, 2021

The Honorable Jeffrey A. Watson  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place  
301 5<sup>th</sup> Avenue, Suite 220  
Pittsburgh, PA 15222

**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 Judge Watson:

Enclosed please find the Surrebuttal Testimony of Brian Kalcic, labeled OSBA Statement No. 1-S, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

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: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)  
Brian Kalcic  
Parties of Record

**OSBA STATEMENT NO. 1-S**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**Surrebuttal Testimony of**

**BRIAN KALCIC**

**On Behalf of the**

**Pennsylvania Office of Small Business Advocate**

**Date Served: September 24, 2021**

**Date Submitted for the Record: September 29, 2021**

1 **Q. Please state your name and business address.**

2 A. Brian Kalcic, 225 S. Meramec Avenue, St. Louis, Missouri 63105.

3

4 **Q. Have you previously submitted direct testimony in this proceeding?**

5 A. Yes.

6

7 **Q. What is the subject of your surrebuttal testimony?**

8 A. I will response to the rebuttal testimony of William C. Packer on behalf of the

9 Company.

10

11 **Company Witness Packer**

12

13 **Q. On pages 11-12 of Aqua Statement No. 1-R, Mr. Packer argues that the**  
14 **Commission should reject the OSBA's recommendation that it deny any rate**  
15 **freeze for Lower Makefield customers that extends beyond the effective date of**  
16 **new rates in Aqua's next base rate case, as a condition for approval of the**  
17 **proposed acquisition. In support of his position, Mr. Packer maintains that:**  
18 **1) the OSBA's request is speculative in nature, dependent upon the timing of**  
19 **the Company's next rate case; 2) the OSBA's conclusion that rates for Lower**  
20 **Makefield customers could remain unchanged beyond the effective date of new**  
21 **rates in Aqua's next base rate case is unlikely to occur, based on the**  
22 **Company's current three year filing cycle; and 3) the OSBA's request is**  
23 **unnecessary, as demonstrated by the Company's treatment of the acquired**

1       **Tobyhanna Sewer System in Aqua’s last base rate case. What is your**  
2       **response?**

3       A. I have several comments. First, with regard to the alleged speculative nature of the  
4       OSBA’s request, Mr. Packer appears to suggest that it is premature to discuss  
5       Lower Makefield’s future rates outside of the context of the Company’s next base  
6       rate proceeding, the timing of which is uncertain at this time. I would normally  
7       agree – except for the fact that Aqua proposes to do just that by including rate  
8       commitments to Lower Makefield in Section 7.03 of the APA that would otherwise  
9       impact future Lower Makefield rates outside of the context of a base rate case.

10               Second, I would emphasize that the OSBA’s recommendation that is at issue  
11       here was proposed in response to *Aqua’s commitment in the APA* to implement a  
12       rate freeze for Lower Makefield customers for a period of two years following the  
13       closing date of the proposed acquisition. Based on the language in Section 7.03 of  
14       the APA, I went on to explain in my direct testimony that Aqua’s proposed two-  
15       year rate freeze could actually continue beyond the effective date of new rates in  
16       Aqua’s first rate case after Closing, depending on the exact timing of Aqua’s next  
17       rate filing.<sup>1</sup> The fact that the Company’s current rate case filing cycle would appear  
18       to render the OSBA’s rate freeze concerns “unlikely” is immaterial, in as much as  
19       the Company (i) has not committed to maintaining a three-year period between rate  
20       case filings and (ii) is not currently subject to a stay-out requirement that would  
21       render the OSBA’s concerns moot.

---

<sup>1</sup> See OSBA Statement No. 1 at pages 4-5.

*Surrebuttal Testimony of Brian Kalcic*

1           Finally, with regard to Mr. Packer’s claim that the OSBA’s concerns are  
2           misplaced since Aqua “would likely” treat Lower Makefield’s proposed rate freeze  
3           in the same manner that was used for the acquired Tobyhanna Sewer System in  
4           Aqua’s last rate case, I would point out that I offered that exact remedy for  
5           resolving the OSBA’s rate freeze concerns as an alternative recommendation in my  
6           direct testimony<sup>2</sup>. As such, to resolve this issue to the satisfaction of all parties, Mr.  
7           Packer need only *commit* to treating Lower Makefield’s rate freeze in the same  
8           manner used for the acquired Tobyhanna Sewer System in Aqua’s next rate  
9           proceeding.

10

11   **Q. Does this conclude your surrebuttal testimony?**

12   A. Yes.

---

<sup>2</sup> See OSBA Statement No. 1 at page 6.

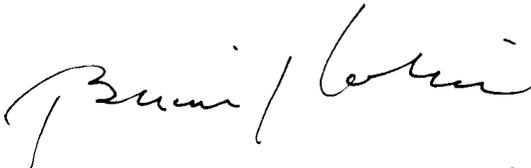
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
v.	:	<b>Docket No. A-2021-3024267</b>
	:	
<b>Aqua Pennsylvania Wastewater, Inc.</b>	:	

**VERIFICATION**

I, Brian Kalcic, hereby state that the facts set forth in my Surrebuttal Testimony labeled OSBA Statement No. 1-S are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. 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: September 23, 2021

  
\_\_\_\_\_  
(Signature)

Brian Kalcic

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**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).

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Dated: September 24, 2021

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**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).

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Dated: October 26, 2021