
 In Re: Application of
 Aqua Pennsylvania
 Wastewater, Inc. Section
 1329 for the Acquisition
 Of Lower Makefield
 Township Wastewater
 System Assets

Docket No.:
 A-2021-3024267

Public Input
 Hearing

 Pages 50 - 133

Judge's Chambers
 Piatt Place
 301 5th Avenue
 Pittsburgh, PA

Thursday, September 23, 2021
 Commencing at 6:00 p.m.

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Docket No. A-2021-3024267

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1 Testimony of Barry

Summers

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Testimony of Barry Summers
Regarding : Docket number is A-2021-3024267
Sale of Lower Makefield Township Sewer System to Aqua Wastewater

From: Protestant Barry Summers
232 Aspen Road
Yardley, PA 19067 (Lower Makefield Township Resident)
Home – 215-369-7656 (preferred)
Cell – 215-738-9270

Introduction

Q. Please state your name, address and occupation.

A. My name is Barry Summers. My home work address is 232 Aspen Road, Yardley, PA 19067. I am currently employed as a Mathematician for a large Pharmaceutical Consulting company.

Q. Please describe your educational and work background and qualifications to provide testimony in this case.

A. I have a bachelor's and master's degree in Applied Mathematics from Temple University and the University of Maryland, respectively. I have been in consulting for 30 years for major Pharmaceutical manufacturers and pharmacy chains and have been involved in many M&A, Business Optimization and other quantitative analyses. As a mathematician, it is not only my job to analyze numbers, but also to analyze the logic of assumptions in business proposals such as this one.

Q. What was your part in this case?

A. I am a resident of Lower Makefield Township (LMT) and am a current customer of and rate payer to the sewer system for sale in this case.

Q. What issues are you addressing in this case?

A. I am providing an analysis of whether the acquisition, if approved, would provide public benefits to LMT, in general as well as financially. This analysis is based on both the logic of assumptions stated in previous documents, as well as research culled from articles online regarding the short- and long-term effects of similar deals. These articles show that public benefit is not an expected result of such sales.

Q. What are the assumptions / statements that you are questioning from docket documents?

A. Statement #1 from prior documentation: "The hypothetical impact on rates is outweighed by the recognized benefits of Aqua's ownership including its expertise and ability to raise capital; the furtherance of consolidation/regionalization of wastewater services; and the spreading of costs over a larger customer base." There is no hypothetical impact on rates, there will actually be rate increases according to Aqua. Further, the "recognized benefit" of Aqua's ability to raise capital is not a feature that LMT wastewater customers would pay for. In other words, raising capital, consolidating services and so on are not value-added features of wastewater processing. Further, should Aqua be able to save money, it is assumed from their statement above that those savings will be passed on to customers. Rather, its fiduciary responsibility is to its shareholders everywhere (rather than the public trust of LMT as a township) actually assures us that its intentions will be financial rather than public trust. In addition, it would not be approved by other townships if they knew that they were absorbing some of LMT's expenses in their rates. In addition, government agencies such as LMT are allowed to borrow money at interest rates far lower than that of public corporations, so the statement that Aqua could borrow money cheaper is not probable.

Direct Testimony - Barry Summers

A. Statement #2 from prior documentation: "This acquisition will permit LMT to take advantage of Aqua's expertise in operating wastewater utility systems and regulatory." A sale is not the only path to take advantage of expertise; management consulting or management of the system and billing rather than its sale would allow the same benefit to be realized.

A. Statement #3 from prior documentation: That the valuation of the system is accurate. The \$54,430,591 valuation presented in the appraisal of AUS Consultants is mathematically impossibly specific for an asset as large as the town's wastewater system. A value accurate to a single dollar is not a reasonable result of a valuation of a township's (large) sewer system. The other \$55,505,000 valuation presented in the appraisal of Gannett would appear on the surface to be a more reasonable numeric value, but both are higher than the reduced amount of \$53,000,000 finally agreed upon. This final value, lower than both assessments, is proof that LMT is not honoring its fiduciary responsibility to the LMT citizens, accepting a lower bid overall for an asset that will soon be gone, never to return to our public ownership. In addition, the documentation for this evaluation has not been shared with all parties and I find that with no data I am unable to analyze this price for my case. I ask that all data be shared as soon as possible.

Q. Are you questioning any assumptions of the sale itself?

A. Yes:

1. Alternatives may not have been sufficiently considered, and if so, have not been well

communicated: if LMT is not taking the wisest long-term decision, over a quick short-term payoff that will cost its citizens ("we"/"us") in the longrun. The information and details (financial and otherwise) for the basis of the decision have not been well-communicated to us. Rather, only a few videos of the meeting are posted on social media.

2. Complete Details of all causes for this financial need have not been well-communicated: Based on various debts LMT discusses piecemeal (debt for its golf course, multi-year Sandy Run Road closure, Senior Center, Dog Park, Snipes Football Field proposal, etc.), I feel that these are indicative of a poor decision making process that does not fulfill the township's fiduciary responsibility to its citizens. Because the entirety of LMT's debt along with its full intent for this deal have not been made completely transparent, I feel that this decision may have been made in error or at the very least sub-optimally for the good of the township. It is quite possible mathematically that an alternative deal (management or otherwise) for the sewer system could provide an overall more optimal solution in the long run. Such long-term financial analyses have not been made readily available.

3. We do not understand the vetting process, other bids and financial alternatives, their amounts both short and long term.

~~**4. The sale is based on a need to improve the sewer system that Aqua will provide, and which LMT is unable to do. It is not a short-term financial concept.**~~

~~As mentioned above, Aqua can consult or manage, its services do not require sale of the system. LMT Supervisor Weiss, who was for the sale, said (per Bucks County Herald News "My idea is we use it (the funds) to protect the (sewer) ratepayers first, then protect the taxpayers, and after that increase township services to make the township a better place". However, according to the Bucks County Courier Times article dated 6/22/2020 "officials estimate about 25% of the township's roughly 541,000 feet of sewer lines are in need of repair". Also, "Currently, the township has \$44.4 million in total bond debt counting interest along with the \$50 million it owns the MMA (Morrisville municipal authority)". It would seem logically based on these figures that the sale of the sewer system is not because of need but a quick infusion of cash for the township's debt. This is short-term thinking, not necessarily long-term. Left-over funds would be non-existent, and it does not seem that Supervisor Weiss is aware of the mathematically impossibility of his intent. Supervisor Lewis objects to the sale of the sewer system.~~

~~**5. That LMT has the best financial interests of its citizens in mind and is careful with its expenses.**~~

~~Other notes regarding poor planning in that same newspaper article, and these had to be found online rather than comprehensively at a LMT website:~~

- ~~a. A commission studying the number of ball fields in the township found that “nearly all of the fields at Macclesfield Park are overused to some degree on account of team scheduling. It is reasonable to conclude, the commission continues, that additional fields are warranted to allow other sports groups access and facilitate current participation levels. The township has budgeted \$500,000 for improvements at Memorial Park, including tennis and bocce courts and ADA-compliant ramps, to be offset with a \$250,000 state grant it received in December 2017.” However, as pointed out in an analysis at <https://lmt-trust.org/> that 45% of participants in field usage are out of town teams; and that better scheduling could alleviate the need for more fields. With over 60 athletic fields currently available in LMT; many in fact are underutilized. The former analysis shows insufficient thought compared to the latter findings.~~
- ~~b. Despite the current debt shown above, a proposed \$600,000 bike path along Woodside Road, between the Makefield Highlands Golf Club and Taylorsville Road has been considered, as well as \$465,000 for one new wall at the community pool.~~
- ~~c. Declining population of participating age group for field use has not been considered according to the LMT Trust website.~~
- ~~d. Another project commonly called the Snipes Football fields were documented in the article, which “could cost between \$2.5 million and \$3.5 million for extra football fields”. It seems that our township is overspending on fields and needs to sell off public assets to pay for them.~~
- ~~e. Per Bucks County Courier Times, “The township’s budget has \$1.3 million allocated toward relocating Sandy Run Road’s entrance onto Edgewood Road, a move the board has said could be financed through any money the township recoups through its ongoing litigation with Boucher & James. The township’s former engineer is alleged to have worsened line-of-sight problems at the intersection, leading police to close a stretch of Sandy Run nearly two years ago.” The Townships’ alleged incompetence and desire for many sports fields without fiduciary care for its citizens could very likely be the pressing cause for the township to sell the sewer system to cover its’ various construction goals.~~

6. That the sewer system sale is urgent.

If LMT retains this asset, uses professional management and improves the system for several years, it could fetch a far higher price a few years out rather than selling it now as a system in need of repair.

7. That Aqua as a public company has the public good as its highest calling.

As a public company, its first calling is to its shareholders wherever they are, not to the citizens of LMT, who have no competitive sewer system to turn to if this is sold. Customers have no choice in such a monopoly. Furthermore, Aqua’s fiduciary responsibility to their shareholders would be to privatize profit and publicize debt using the same government grants that LMT has at its disposal.

8. That Aqua will provide much needed repairs to the system, and more/cheaper than LMT could provide.

Aqua has not stated specifically what repairs to the system it is committing to, and what percentage of required repairs need to be done; how this amount is determined, by whom, and what is the criticality of these repairs – is it all of the critical, some of the severe, etc. We do not know the projected cost to Aqua over the next few years, and thus the precise amount to be passed on to the customer (per customer)? Will this be of debt they incur, or of public grants they will not pay for but whose ‘expenses’ are passed on to customers as price increases? The answers to these questions are material to the value of the sale to Aqua, and are material to whether or not the sale price is good or bad.

9. That the assessment by the pricing consultants PFM Financial Advisors, LLC, of Harrisburg was fair.

The same article <https://www.buckscountycouriertimes.com/story/news/2020/06/22/lower-makefield-could-fetch-up-to-56m-for-sewer-system/112781728/> mentioned above states that PFM was retained

~~by the township with no details of how PFM was selected. Online discussion suggests that PFM is linked strongly to deals eventually won by Aqua. I would like to know how many sewer system sales won by Aqua at some point included involvement by PFM, and how many of PFM's assessments were eventually awarded to Aqua. Further, how is PFM paid for an assessment, versus an assessment that ends with the sale of the asset? What is PFM's relationship to Aqua and have what direct relationships/conversations have they had outside of discussions with other possible utility buyers?~~

10. Are sewer rate increases fair and reasonable based on the service provided to the end customer?

LMT's sewer rates (for me) nearly increased by 83.5% in the last 4 years alone, and this is with LMT's statement that its repairs are falling behind requirements. However, we do not know how many repairs LMT performed given this rate increase, and how Aqua's proposed repairs compare given that they will raise rates by about 25% every few years. This lack of information is troubling. They should specifically state the reason for this rate increase, substantiate it financially (with data) and demonstrate why this cost is increasing at a rate far in excess of cost of living. For indigent customers, this can lead to liens on property, further indebting the poor. Will Aqua repair more or less, what criticality, what % of required repairs, and how much debt will be passed on? These are material to understanding if Aqua's offer to buy the sewer system is a good offer to a poor offer.

\$492 in 2016

\$496 in 2017

\$505 in 2018

\$685 in 2019

\$903 in 2020

11. That the larger Aqua will be able to take care of LMT sewer better than LMT can because of economies of scale.

This is not likely given that LMT's fixed and variable costs are in a different geography than Aqua's other business territories. Put another way, it is not so that multiple tasks in LMT will be shared by one entity, lowering prices; rather Aqua will likely lay off employees in LMT (see articles stating such below) and need to employ capital expenses in this new location (LMT) for the same or similar costs that LMT would have paid.

12. Are economies of scale achieved from every increase in the number of customers?

No. Economies of scale are the advantages obtained by decreasing cost per unit of output. Every increase in customers will not lead to cost savings unless the average cost of output decreases. This is not assured in new business geography with new infrastructure.

13. Do you have any information regarding how private ownership of public assets is driven by return on investment, not on citizen approval when there is no alternative for the citizen?

Yes:

- 1) https://www.washingtonpost.com/national/health-science/towns-sell-their-public-water-systems--and-come-to-regret-it/2017/07/07/6ec5b8d6-4bc6-11e7-bc1b-fddbd8359dec_story.html - Washington Post article from 2017 "**Towns sell their public water systems — and come to regret it**". They also stress that once sold, there is "no going back".
- 2) <https://www.foodandwaterwatch.org/2015/08/02/water-privatization-facts-and-figures/> - "**Privatizing local water and sewer systems usually does far more harm than good for our communities.**" This article also suggest a public-private hybrid and many other suggestions for improving utilities. Have these recommendations been made to LMT's facility? Also, this article stresses that quality of service declines sharply once private companies take over. **One reason service suffers is because water companies reduce the workforce by 34 percent on average in order to grow profits, thus increasing unemployment and causing repairs to suffer.**
- 3) <https://hbr.org/1991/11/does-privatization-serve-the-public-interest> - Harvard article on **financial incentives for CEOs that have taken over public assets**

- 4) <https://newint.org/features/web-exclusive/2018/05/10/public-ownership-cat-hobbs> - **"Privatization has failed repeatedly"**
- 5) <https://www.commondreams.org/views/2013/08/05/8-ways-privatization-has-failed-america> **"8 Ways Privatization Has Failed America" which calls out, among other things, public utilities**
- 6) <https://nextcity.org/daily/entry/privatization-water-utilities-inequality-poverty> - **"Examples of How City Services Privatization Leads to Inequality Are Piling Up" One such example says that because private companies raise rates, elderly in one town shower only once a week to save on their water/sewer bills, while "...residents pay four to six times more for their water than residents of neighboring towns."**
- 7) <https://www.nap.edu/read/10135/chapter/3> - National Academy Press article stating that governments borrow money at rates lower than private companies, implying that **repairs funded publicly are less expensive in the long run than for Private companies**
- 8) <https://www.cbsnews.com/news/can-the-private-sector-save-americas-aging-water-systems/> - A 2017 CBS article stating that water and wastewater bills increased "4.4 percent per year on average, according to Bluefield. And a recent Michigan State University study found the percentage of **U.S. households who will find water bills unaffordable could triple, from 11.9 percent to 35.6 percent, in the next five years.**"
- 9) <https://www.hsdl.org/?view&did=690622> P27 metrics: Suburban Texas fire chief reported that after privatization of their ambulance service, employee satisfaction was down, staffing of ambulances was lower, response time was slower, appropriate equipment was used "some of the time", and most importantly, "patient **getting a better or worse value" was rated 67% worse, 23% same, 10% better.** If this is for life saving operations, how much more so for a utility?"

Q. Do you have any recommendations regarding these proposals?

A. LMT should consider retaining a management/repair firm, improve the value of its sewer system, and consider selling later when the value increases. Alternatively, LMT should consider using these companies to perform the management and repair needed without needed to permanently sell the asset. Alternatively, LMT could lease the sewer system for a few years and take back its asset when such repairs have been performed.

Q. Has there been any evidence of LMT providing inadequate service?

A. No.

Q. Please summarize your recommendation regarding this sale.

A. The transaction proposed by LMT / Aqua would create significant additional costs, with no demonstrable improvement to conditions. The sale of its assets would cause a loss in quality of service (see articles listed above). I recommend that the Application be denied.

Q. Do you know of any other Aqua acquisitions that were denied by the state of Pennsylvania?

A. Aqua's attempted acquisition of the wastewater system assets of DelCorA was denied. The PUC administrative judge's recommendation of denial was eFiled today by me (9/10/2021). Please see the entire document, specifically note 10 in "Conclusions of Law" section (please see my addendum to this Testimony) "Aqua has failed to establish a record upon which the Commission can make a determination that the proposed acquisition promotes the service, accommodation, convenience and safety of the public in some substantial way."

Conclusion

Q. Please provide a summary of your testimony regarding the claimed benefits in this 6 proceeding.

A. Aqua Wastewater makes many statements in support of the benefits of this acquisition, but many of these statements are vague and lack quantitative support. The short term revenue provided by the current terms of the agreement would largely vanish due to the debt burden of the township, and its stated goal of protecting rate payers and tax payers does not seem likely given the expected financial results. The thin data presently supplied lends any reasonable reader to assume that rates would increase exorbitantly to cover needs. However, the statement that Aqua would repair the sewer system with results far exceeding LMT's ability does not seem likely and is not substantiated in any concrete way, with specifics of what will be repaired, how much, and of what criticality. In fact, the many articles cited above demonstrate that the overwhelming evidence is that prices will likely increase greatly, service will decline substantially, and the amount and quality of repairs will be unknown. In short, there is no clear proof that the benefits of this deal outweigh the risks in a manner substantially better than LMT's current path, or better than other paths it could take with a deeper financial analysis.

However, if the Commission approves the acquisition, conditions should be set for Aqua to provide clear, specific, measurable and time-specified details of its repairs that are measurably valuable against its rate increases. Further, that those rate increases be reasonable and comparable to those of public sewer authorities in the nearby geographic area, rather than those of public corporations.

Further, a level of service for the existing customers must assure that existing customers are unharmed and the benefits received as a result of the acquisition are properly allocated to LMT ratepayer and not solely to the Aqua shareholder or to its Executives.

To assure that these do happen in the event of an acquisition, I would ask that Aqua be required to submit cost-of-service studies, quality of service studies, and rate/repair fairness studies, independently and neutrally verified, to the PUC and the People of LMT for regular review.

Q. Does this conclude our direct testimony?

A. Yes. However, I reserve the right to modify or supplement my testimony if necessary.

VERIFICATION

I, Barry Summers, hereby state that the facts set forth in my Direct Testimony, are true and correct (or 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).

DATED: September 9, 2021 Signed by **Barry Summers**