



COMMONWEALTH OF PENNSYLVANIA

January 14, 2022

E-FILED

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

**Re: Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc. and Aqua
Pennsylvania Wastewater, Inc. / Docket Nos. R-2021-3027385, R-2021-3027386**

Dear Secretary Chiavetta:

Enclosed please find the **Supplemental** Main Brief, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings, which contains **REVISED** Proposed Findings of Facts, contained within Appendix A.

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

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

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney I.D. No. 77538

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : Docket Nos. R-2021-3027385

v. : R-2021-3027386

**Aqua Pennsylvania, Inc. and Aqua
Pennsylvania Wastewater, Inc.**

**SUPPLEMENTAL MAIN BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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Date: January 14, 2022

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I. Introduction

A. History of the Proceeding

On August 20, 2021, Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. (collectively “Aqua PA” or the “Company”) filed Tariff Water-Pa. P.U.C. No. 3 and Original Tariff Sewer-Pa. P.U.C. No. 3 (collectively, the “Tariffs”) with the Pennsylvania Public Utility Commission (“Commission”). The Tariffs, if approved by the Commission, would increase Aqua PA’s total annual operating revenues by \$97,684,824.

On September 8, 2021, the Office of Small Business Advocate (“OSBA”) filed a formal Complaint in opposition to the Tariffs.

On October 15, 2022, a prehearing conference was held before Administrative Law Judge (“ALJ”) Mary D. Long.

On October 19, 2021, ALJ Long issued her Prehearing Order.

On November 10, 2021, the OSBA served the Direct Testimony of Brian Kalcic.

On December 2, 2021, the OSBA served the Rebuttal Testimony of Mr. Kalcic.

On December 14, 2021, the OSBA served the Surrebuttal Testimony of Mr. Kalcic.

On December 20, 2021, ALJ Long conducted an evidentiary hearing.

The OSBA submits this Main Brief in accordance with ALJ Long’s October 19th Prehearing Order.

B. Legal Standards

Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). "It is well-established that the evidence adduced by a utility to meet this burden must be substantial." *Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008). "Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case." *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.

Furthermore, Section 523 of the Public Utility Code, 66 Pa. C.S. § 523, requires the Commission to "consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates." In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate, and reasonable service. "[I]n exchange for the utility's provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility's investors . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs." *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S.

§ 1501. As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.” 66 Pa. C.S. § 526(a).

II. Summary of Argument

The OSBA takes no position regarding the details of Aqua PA’s proposed customer assistance program. The OSBA submits that the only just, reasonable, and non-discriminatory result is for all costs of any Company residential-only customer assistance program to be recovered solely from the Company’s residential class.

Aqua PA’s proposed Energy Cost Adjustment Mechanism should be rejected as unjust and unreasonable.

Aqua PA’s proposed Purchased Water Adjustment Clause should be rejected as unjust and unreasonable.

The OSBA submits that Aqua PA’s water cost of service study and wastewater cost of service studies are accurate, just, and reasonable.

Aqua PA’s proposed customer class revenue allocation for water service customers is unjust and unreasonable. The revenue allocation proposed by the OSBA is just, reasonable, and meets the legal requirements set forth by the Pennsylvania Commonwealth Court.

If the Commission awards Aqua PA an overall water revenue increase less than that requested by the Company, the OSBA’s proposed water service increases, excluding those increases assigned to the Public Fire Protection and Contract Sales classes, should be proportionally scaled back.

Aqua PA’s proposed methodology for allocating the Company’s Act 11 revenue requirement to water service customers is just and reasonable.

The OSBA recommends that the Commission limit Aqua PA's Act 11 revenue requirement to no more than \$18.580 million.

If the Commission awards Aqua PA an overall wastewater revenue requirement less than that requested by the Company, the OSBA's proposed wastewater class increases should remain unchanged, and the Act 11 revenue requirement assigned to water service classes should be reduced by proportionally scaling back Aqua PA's total claimed wastewater cost of service, by wastewater class.

III. Rate Base

The OSBA is not addressing this issue in this Main Brief.

IV. Revenues

The OSBA is not addressing this issue in this Main Brief.

V. Expenses

The OSBA is not addressing this issue in this Main Brief.

VI. Taxes

The OSBA is not addressing this issue in this Main Brief.

VII. Rate of Return

The OSBA is not addressing this issue in this Main Brief.

VIII. Miscellaneous Issues

A. Universal Service Rider

In its original filing, Aqua PA proposed a rider to recover the cost of the Company's customer assistance program ("CAP") proposals. The OSBA has taken no position on the details of the Company's CAP proposals, including how the costs of those programs are recovered.

However, the OSBA supports the Company's proposal to recover all costs of its CAP programs from the residential class. To do otherwise would be unjust, unreasonable, and discriminatory. *See*, OSBA Statement No. 1, at 20.

B. Energy Cost Adjustment Mechanism ("ECAM")

OSBA witness Brian Kalcic summarized the Company's ECAM proposal, as follows:

The ECAM is intended to capture changes in (i) the actual energy costs incurred by the Company and (ii) the energy costs included in base rates, as established in Aqua's most recent base rate case. Any difference in such energy costs would be tracked over a twelve-month calculation period, with the difference recovered from or refunded to customers (as appropriate) via a volumetric surcharge or surcredit over the following twelve-month period.

OSBA Statement No. 1, at 20-21 (footnote omitted).

Mr. Kalcic testified to the inherent defect in the Company's ECAM proposal:

If the ECAM were to be approved, the Company would have no incentive to control its energy usage or costs, since any cost increases would be automatically passed along to customers. As a result, I would expect that the only way ratepayers could benefit from the ECAM would be if energy prices were to decline between base rate proceedings.

Id., at 22.

The Company's ECAM proposal also exhibits other problems. The ECAM would insulate the Company from fluctuating energy costs, thereby lowering Aqua PA's business risk. This should result in a lower return on equity ("ROE") for Aqua PA, but the Company made no such proposal. Furthermore, by lowering Aqua PA's business risk, while not lowering the Company's ROE, the entities that would most benefit from the ECAM proposal are the Company's shareholders. OSBA Statement No. 1, at 21-22.

In addition, the ECAM proposal provides a classic example of single-issue ratemaking. This is a traditional base rate proceeding, not a case involving an alternative ratemaking methodology. Therefore, the ECAM proposal is wholly inappropriate.

Finally, the Commission is well aware that energy costs are rising, as well as the impact that the COVID-19 Pandemic has had on Aqua PA's customer classes. It would be entirely unreasonable at this point in time to disincentivize Aqua PA to aggressively control the Company's energy costs. The Company's ECAM proposal should be rejected in its entirety.

C. Purchased Water Adjustment ("PWA") Clause

Mr. Kalcic explained the Company's proposed PWA clause, as follows:

Aqua states that the PWA clause would adjust customers' bills by adding a charge or credit to reflect increases or decreases, respectively, in the Company's annual purchased water costs incurred from non-affiliated suppliers, compared to the annual level of 'Baseline Costs' approved in Aqua's most recent base rate proceeding. Any PWA surcharge would be capped at 3% of the amount billed to customers under the Company's otherwise applicable rates and charges, and the proposed PWA clause would be subject to audit and an annual reconciliation process.

OSBA Statement No. 1, at 23.

Once again, Mr. Kalcic testified to the inherent defect in the Aqua PA proposal:

If the Commission were to approve the PWA clause, the Company would have no incentive to control its purchased water costs, since any cost increases would be passed along to customers. As in the case of the Company's proposed ECA mechanism, I would expect that only way ratepayers could benefit from the PWA clause would be if purchased water costs were to decline between base rate proceedings.

Id., at 25.

Furthermore, Aqua PA's proposed PWA clause is wholly unnecessary. The Company's purchased water costs are \$4.5 million, whereas Aqua PA's claimed water cost of service is

\$575.03 million. Purchased water costs are only 0.7% of the Company's total costs. Any changes in water costs will have a minimal impact on Aqua PA's earnings. OSBA Statement No. 1, at 24.

Moreover, just as with the Company's ECAM proposal, Aqua PA's PWA clause constitutes single-issue ratemaking. This is a traditional base rate proceeding, not a case involving an alternative ratemaking methodology. Therefore, the PWA clause is wholly inappropriate. The Commission should reject the Company's PWA clause in its entirety.

IX. Rate Structure

A. Cost of Service

Aqua PA performed a class cost of service study ("COSS") for water service. *See* Aqua PA Statement No. 5, at 3-10.

Aqua PA also performed a separate COSS for wastewater service, by wastewater division. *See* Aqua PA Statement No. 5, at 18-21.

The OSBA reviewed the methodologies employed by the Company in both its water and wastewater cost-of-service studies. The OSBA determined that both cost-of-service methodologies were accurate, just, and reasonable.

B. Revenue Allocation

1. Legal Standards

Section 1301(a) of the Public Utility Code states, as follows:

Regulation. – Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.

66 Pa. C.S. § 1301(a) (Rates to be just and reasonable).

Section 1304 of the Public Utility Code states, as follows:

No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service.

66 Pa. C.S. § 1304 (Discrimination in rates)

Section 1311(c) of the Public Utility Code states, as follows:

Segregation of property. — When any public utility furnishes more than one of the different types of utility service, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the rate base of such public utility for the purpose of fixing base rates. A utility that provides water and wastewater service shall be exempt from this subsection upon petition of a utility to combine water and wastewater revenue requirements. The commission when setting base rates, after notice and an opportunity to be heard, may allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest.

66 Pa. C.S. § 1311(c) (Valuation of and return on the property of a public utility). In addition,

Section 1311(e) of the Public Utility Code states, as follows:

Definition. — As used in this section, the term ‘utility that provides both water and wastewater service’ shall include separate companies that individually provide water or wastewater service so long as the companies are wholly owned by a common parent company.

66 Pa. C.S. § 1311(e).

The Commonwealth Court in *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d

1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676 (2007) decided, as follows:

However, while permitted, gradualism is but one of many factors to be considered and weighed by the Commission in determining rate designs, and principles of gradualism cannot be allowed to

trump all other valid ratemaking concerns and do not justify allowing one class of customers to subsidize the cost of service for another class of customers over an extended period of time.

* * *

[I]n effect, the Commission has determined that the principle of gradualism trumps all other ratemaking concerns - especially the polestar - cost of providing service.

Lloyd, at 1020.

The Commission in *Pennsylvania Public Utility Commission v. City of Bethlehem -- Water Department*, Docket No. R-2020-3020256 (Order entered April 15, 2021) decided, as follows:

As noted by the OSBA, the proper yardstick for measuring the degree of movement toward cost of service is the change in the absolute level of class subsidies at present and proposed rates.

City of Bethlehem, at 36.

2. Water Service Revenue Allocation

Mr. Kalcic summarized Aqua PA's proposed water service revenue allocation, as follows:

Schedule BK-1W provides a summary of the Company's proposed class revenue allocation for water service. The proposed system average increase in total water revenues is 16.9% (see line 11). The Company's proposed increases to individual customer classes (see lines 1-7) range from a low of 15.9% (Other Water Utilities) to a high of 20.6% (Public Fire).

* * *

At this time, the Company's projects that contract customers will be subject to contract-based increases amounting to \$303,705 or 4.2% (on average), which is reflected on line 9 of Schedule BK-1W.

OSBA Statement No. 1, at 4. Schedule BK-1W is set forth below.¹

¹ The OSBA only addressed water and wastewater revenue allocation in this proceeding. The OSBA did not offer any testimony or record evidence on the subject of rate design. Consequently, the OSBA will not address any rate impact analysis for residential, commercial and industrial rate classes by rate zone for both water and wastewater.

AQUA PENNSYLVANIA, INC.

Company Proposed Allocation of its
Requested Increase in Water Revenues
(Future Test Period Ending March 31, 2023)

Line	Classification	Present	Proposed Increase	
		Revenue*	Amount	Percent
		1	2	3
1	Residential	\$333,854,297	\$58,198,937	17.4%
2	Commercial	\$119,491,326	\$19,090,527	16.0%
3	Industrial	\$16,630,075	\$3,075,729	18.5%
4	Public	\$8,516,664	\$1,362,175	16.0%
5	Other Water Utilities	\$12,812	\$2,034	15.9%
6	Private Fire Prot.	\$16,153,537	\$2,822,598	17.5%
7	Public Fire Prot.	<u>\$6,438,592</u>	<u>\$1,329,034</u>	20.6%
8	Total Sales	\$501,097,303	\$85,881,034	17.1%
9	Contract Sales	\$7,262,995	\$303,705	4.2%
10	Other Revenues	<u>\$1,318,393</u>	<u>\$0</u>	0.0%
11	TOTAL	<u>\$509,678,691</u>	<u>\$86,184,739</u>	16.9%

Source: Exh. No. 5-A,
Part I, Sch. A

Notes:

* Includes DSIC at 7.5%.

While Aqua PA claimed that its proposed revenue allocation appropriately reflects class cost-of-service results, Mr. Kalcic undertook his own evaluation of the Company's proposed revenue allocation, exclusive of Act 11 considerations. Mr. Kalcic, echoing the Commission's decision in *City of Bethlehem*, stated, as follows:

By definition, if a class is not paying exactly its full cost of service, it is either: a) receiving a subsidy (i.e., paying too little); or b) providing a subsidy (i.e., paying too much). In order to determine whether or not a class is moving toward cost of service, one must

ascertain whether the class's present subsidy is growing or shrinking at proposed rates. If its present subsidy is growing at proposed rates, the class is moving in the wrong direction (i.e., away from cost of service). Conversely, if its present subsidy is shrinking at proposed rates, the class is moving closer to cost of service.

OSBA Statement No. 1, at 6-7.

Mr. Kalcic calculated the class subsidies at Aqua PA's present and proposed water rates using the Company's water COSS. Mr. Kalcic summarized those calculations in Schedule BK-3W, which is set forth below.

AQUA PENNSYLVANIA, INC.

Class Revenue Subsidies at
Present and Company Proposed Rates
Basis: Water Service Only
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	Present	Proposed
		Subsidy	Subsidy
		(\$000)	(\$000)
		1	2
1	Residential	(\$6,309)	(\$7,711)
2	Commercial	\$4,500	\$3,842
3	Industrial	(\$715)	(\$27)
4	Public	\$769	\$975
5	Other Water Utilities	\$11	\$12
6	Private Fire Prot.	\$2,188	\$2,907
7	Public Fire Prot.	<u>(\$444)</u>	<u>\$0</u>
8	Total Company	(\$0)	(\$2)

Source: Sch. BK-3W, pg. 2 of 2 Sch. BK-3W, pg. 2 of 2

Note: A positive subsidy figure indicates that a class is providing a subsidy; a negative figure indicates that it is receiving a subsidy.

Mr. Kalcic explained BK-3W, as follows:

The subsidies reported on page 1 of Schedule BK-3W are derived by subtracting each class's cost-of-service based revenue requirement, *exclusive of the unrecovered cost of wastewater service*, as measured by the Company's WCOSS, from that class's total revenue contribution (again, net of any proposed contributions toward wastewater service), at present and Company proposed rates. These calculations provide a dollar measure of the difference between actual class water revenues and those revenue levels that, if attained, would produce equalized class rates of return at present and Company proposed rates.

As previously discussed, classes that exhibit a reduction in the (absolute) magnitude of their respective subsidies are moving closer to cost of service. Conversely, those classes that exhibit an increase in the (absolute) magnitude of their respective subsidies are moving away from cost of service.

OSBA Statement No. 1, at 8 (emphasis in original) (footnote omitted). Mr. Kalcic continued, as follows:

Page 1 of Schedule BK-3W indicates that *only the Commercial, Industrial and Public Fire classes* would exhibit *movement toward* cost of service under the Company's proposed revenue allocation. Conversely, *the Residential, Public, Other Water Utilities and Private Fire classes* would *move further from* cost of service under Aqua's proposal.

OSBA Statement No. 1, at 8-9 (emphasis added).

Mr. Kalcic concluded that Aqua PA's proposed revenue allocation for water service, exclusive of Act 11 wastewater subsidies, was inappropriate as it failed to move all customer classes closer to their respective cost-based revenue levels. *Id.*, at 9. Therefore, the Company's proposed revenue allocation for water service, exclusive of Act 11 wastewater subsidies, is in violation of *Lloyd*, and therefore unjust and unreasonable.

Mr. Kalcic sponsored a just and reasonable revenue allocation (at the Company's requested water revenue increase), exclusive of any allocation of Act 11 subsidies, which he summarized, as follows:

Schedule BK-4W shows the OSBA's recommended allocation of Aqua's (pre-Act 11) requested increase in water revenues of \$65.3 million, which may be compared to the Company's proposal shown in Schedule BK-2W. Under the OSBA's proposal, class increases range from 0.0% (Other Water Utilities) to 20.6% (Public Fire).

OSBA Statement No. 1, at 9. Mr. Kalcic continued, explaining how he created his proposed revenue allocation:

My recommended revenue allocation was derived via three steps. First, I assigned each customer class its cost based increase, as determined by the Company's filed WCOSS.

Second, I adjusted the increases from Step 1 such that no class would receive either (i) an increase greater than 1.50 times the system average, or (ii) a rate decrease. These conditions necessitate assigning an increase to the small Other Water Utilities class of 0.0%, in lieu of an otherwise applicable cost-based decrease of approximately \$12,000. In addition, Step 2 sets the overall Private Fire increase at \$0.329 million or 2.0%, in lieu of an otherwise applicable cost based decrease of \$0.085 million. On net, Step 2 produces a revenue surplus of approximately \$0.424 million that must be credited to Aqua's remaining classes.

Third, I assigned the \$0.424 million surplus identified in Step 2 to the Residential and Industrial classes (i.e., those classes targeted with above system average increases, excluding Public Fire) in proportion to their respective total cost of service at proposed rates.

OSBA Statement No. 1, at 9-10 (footnote omitted). Schedule BK-4W is set forth below.

AQUA PENNSYLVANIA, INC.

OSBA Recommended Allocation of Aqua's
Requested Increase in Water Revenues,
Exclusive of any Act 11 Wastewater Allocation
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	<u>Present Revenue*</u>	<u>Recommended Increase</u>	
			<u>Amount</u>	<u>Percent</u>
		1	2	3
1	Residential	\$333,854,297	\$48,699,128	14.6%
2	Commercial	\$119,491,326	\$11,308,636	9.5%
3	Industrial	\$16,630,075	\$3,081,805	18.5%
4	Public	\$8,516,664	\$294,206	3.5%
5	Other Water Utilities	\$12,812	\$0	0.0%
6	Private Fire Prot.	\$16,153,537	\$328,799	2.0%
7	Public Fire Prot.	<u>\$6,438,592</u>	<u>\$1,329,034</u>	20.6%
8	Total Sales	\$501,097,303	\$65,041,608	13.0%
9	Contract Sales	\$7,262,995	\$303,705	4.2%
10	Other Revenues	<u>\$1,318,393</u>	<u>\$0</u>	0.0%
11	TOTAL	<u>\$509,678,691</u>	<u>\$65,345,313</u>	12.8%

Source: Exh. No. 5-A, Testimony of
Part I, Sch. A Mr. Kalcic

Notes:

* Includes DSIC of 7.5%.

To demonstrate the degree of movement toward cost of service under the OSBA's proposal, Mr. Kalcic calculated the class revenue subsidies which would result from the OSBA's proposed revenue allocation in Schedule BK-5W:

AQUA PENNSYLVANIA, INC.

Class Revenue Subsidies at
Present and OSBA Recommended Revenue Levels
Basis: Water Service Only
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	Present	OSBA
		Subsidy	Proposed
		(\$000)	(\$000)
		1	2
1	Residential	(\$6,309)	(\$405)
2	Commercial	\$4,500	\$0
3	Industrial	(\$715)	(\$21)
4	Public	\$769	\$0
5	Other Water Utilities	\$11	\$10
6	Private Fire Prot.	\$2,188	\$413
7	Public Fire Prot.	<u>(\$444)</u>	<u>\$0</u>
8	Total Company	(\$0)	(\$2)

Source: Sch. BK-5W, pg. 2 of 2 Sch. BK-5W, pg. 2 of 2

Note: A positive subsidy figure indicates that a class is providing a subsidy; a negative figure indicates that it is receiving a subsidy.

Mr. Kalcic explained how the OSBA's proposed revenue allocation is just and reasonable, as follows:

Unlike the Company's proposal, the OSBA's recommended revenue allocation would move *all* rate classes *to* or *toward* their respective cost-based revenue levels and, in doing so, would eliminate the vast majority of the class subsidies that exist under Aqua's present water rates.

OSBA Statement No. 1, at 11 (emphasis in original).

Mr. Kalcic stated his agreement with the Company's method of allocating its Act 11 revenue requirement to its water service classes, but not with the overall magnitude of Aqua's proposed Act revenue requirement.² OSBA Statement No. 1, at 15 and 17. To illustrate the OSBA's proposed revenue allocation for water service, inclusive of Aqua's proposed Act 11 revenue requirement of \$20.839 million, Mr. Kalcic prepared Schedule BK-6W, which may be directly compared to Aqua's proposal shown in Schedule BK-1W. OSBA Statement No. 1, at 11. Schedule BK-6W is set forth below.

² The OSBA's proposal to reduce the Company's total Act 11 revenue requirement from \$20.839 million to \$18.580 million is discussed in Section IX.B.3. below.

AQUA PENNSYLVANIA, INC.

OSBA Recommended Allocation of Aqua's
Requested Increase in Water Revenues,
Inclusive of Aqua's Proposed Act 11 Revenues
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	<u>Present Revenue*</u>	<u>OSBA Recomm. Increase</u>	<u>Aqua Proposed Act 11</u>	<u>Total Increase</u>	<u>% Inc.</u>
		1	2	3	4=2+3	5=4/1
1	Residential	\$333,854,297	48,699,128	16,806,100	\$65,505,228	19.6%
2	Commercial	\$119,491,326	11,308,636	\$3,939,400	\$15,248,036	12.8%
3	Industrial	\$16,630,075	3,081,805	\$528	\$3,082,333	18.5%
4	Public	\$8,516,664	\$294,206	\$93,398	\$387,604	4.6%
5	Oth. Water Util.	\$12,812	\$0	\$0	\$0	0.0%
6	Priv. Fire Prot.	\$16,153,537	\$328,799	\$0	\$328,799	2.0%
7	Pub. Fire Prot.	<u>\$6,438,592</u>	<u>1,329,034</u>	<u>\$0</u>	<u>\$1,329,034</u>	20.6%
8	Total Sales	\$501,097,303	65,041,608	20,839,426	\$85,881,034	17.1%
9	Contract Sales	\$7,262,995	\$303,705	\$0	\$303,705	4.2%
10	Oth. Revenues	<u>\$1,318,393</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	0.0%
11	TOTAL	<u>\$509,678,691</u>	<u>65,345,313</u>	<u>20,839,426</u>	<u>\$86,184,739</u>	16.9%

Source: Exh. No. 5-A, Schedule Exh. No. 5-A,
Part I, Sch. A BK-4W Part I, Sch. A

Notes:

* Includes DSIC of 7.5%.

Finally, if the Commission awards Aqua PA a water service revenue increase less than the Company's requested amount of \$65.3 million (exclusive of Act 11 considerations), Mr. Kalcic testified, as follows:

In that event, I would recommend that the class increases shown in column 2 of Schedule BK-4W, excluding Public Fire Protection and Contract Sales, be scaled back proportionately.

OSBA Statement No. 1, at 11.

Furthermore, Mr. Kalcic testified that the Act 11 revenues assigned to water classes should also be subject to a separate scale back at the conclusion of this proceeding, as determined by (i) the level of the Company's awarded wastewater revenue requirement and (ii) the overall level of final wastewater rates. OSBA Statement No. 1, at 12. Mr. Kalcic's proposals with regard to the scale back of wastewater rates and Act 11 revenues are discussed in the Section IX.B.3 below.

3. Wastewater Service Revenue Allocation

Mr. Kalcic summarized Aqua PA's proposed wastewater service revenue allocation, as follows:

Schedule BK-1WW shows the Company's proposed increases to wastewater revenues, by customer class. In aggregate, Aqua is proposing to increase existing wastewater revenues by \$11.6 million, or 31.2%.

* * *

Schedule BK-2WW shows Aqua's proposed wastewater increases, by wastewater division. The Company's proposed increases to individual divisions range from a low of 18.5% (Base Operations) to a high of 74.8% (Limerick Operations).

OSBA Statement No. 1, at 13. Schedules BK-1WW and BK-2WW are set forth below.

AQUA PENNSYLVANIA WASTEWATER, INC.

Company Proposed Allocation of its
Requested Increase in Wastewater Revenues,
by Customer Class
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	Present	<u>Proposed Increase</u>	
		<u>Revenue*</u>	<u>Amount</u>	<u>Percent</u>
		1	2	3
1	Residential	\$25,848,678	\$8,612,297	33.3%
2	Commercial	\$9,333,222	\$2,790,157	29.9%
3	Industrial	\$3,530	\$1,129	32.0%
4	Public Authority	<u>\$204,412</u>	<u>\$51,355</u>	25.1%
5	Total Sales	\$35,389,842	\$11,454,938	32.4%
6	Contract / Third P.	\$1,592,785	\$108,659	6.8%
7	Other Revenues	<u>\$76,434</u>	<u>\$0</u>	0.0%
8	TOTAL	<u>\$37,059,061</u>	<u>\$11,563,597</u>	31.2%

Source: Exh. No. 5-B,
Part II

Notes:

* Includes DSIC Revenues.

AQUA PENNSYLVANIA WASTEWATER, INC.

Company Proposed Increase in Wastewater Revenues,
by Wastewater Division
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Division</u>	Present	Proposed Increase	
		<u>Revenue*</u>	Amount	Percent
		1	2	3
1	Base	\$18,675,524	\$3,454,398	18.5%
2	Limerick	\$3,969,764	\$2,968,877	74.8%
3	East Bradford	\$998,191	\$358,379	35.9%
4	Cheltenham	\$7,238,362	\$2,541,306	35.1%
5	East Norriton	\$2,916,336	\$1,157,851	39.7%
6	New Garden	<u>\$2,871,698</u>	<u>\$1,063,739</u>	37.0%
7	Total Sales	\$36,669,875	\$11,544,550	31.5%
8	Contract	\$312,754	\$19,047	6.1%
9	Other Revenues	<u>\$76,434</u>	<u>\$0</u>	0.0%
10	TOTAL	<u>\$37,059,063</u>	<u>\$11,563,597</u>	31.2%

Source: Exh. No. 5-B,
Part I

Notes:

* Includes DSIC Revenues.

Mr. Kalcic then discussed the fact that Aqua PA's proposed wastewater increase of \$11.563 million would not recover all of the Company's claimed wastewater revenue requirement, as follows:

As shown in Aqua Exhibit No. 5-B, Part I, Schedule A, column 3, the Company proposes to recover \$20.839 million of its claimed wastewater revenue requirement from water service customers. The \$20.839 million represents the difference between the Company's: 1) total claimed wastewater revenue requirement of \$69.465 million; and b) total proposed wastewater revenues of \$48.626 million.

OSBA Statement No. 1, at 13.

Before commenting on Aqua PA's specific proposal to shift \$20.839 million of revenue responsibility to water customers under Act 11, Mr. Kalcic testified, as follows:

Counsel advises that Act 11 permits the recovery of a portion of the Company's wastewater revenue requirement from water customers in a given rate proceeding, in order to mitigate the rate increases that wastewater service customers might otherwise experience.

At the same time, Counsel further advises that Act 11 does not authorize a *permanent* shift in revenue responsibility from wastewater to water customers. In other words, Act 11 does not supersede the cost-of-service principles established by the Commonwealth Court's decision in *Lloyd*.

OSBA Statement No. 1, at 14 (emphasis in original) (footnote omitted).

Mr. Kalcic is correct on both counts. Act 11 provides the statutory authority to temporarily recover the costs associated with the Company's wastewater system from its water customers. However, nothing in Act 11 allows for any cross-subsidization of customer classes between wastewater and water customers. Furthermore, Act 11 does not supersede the requirements of *Lloyd*, in that Aqua PA's water rates (exclusive of Act 11) must be based primarily upon the results of the Company's water COSS.

With respect to Aqua's Act 11 proposal, Mr. Kalcic approved the Company's proposed method of allocating its Act 11 wastewater subsidies to its water service classes. He explained Aqua PA's proposal, as follows:

Since the purpose of Act 11 is to mitigate class increases to wastewater customers, the temporary subsidies afforded to specific wastewater classes should be recovered from the utility's corresponding water service classes. In other words, the subsidy provided to residential wastewater customers should be recovered from residential water customers, and the subsidy provided to non-

residential wastewater customers should be recovered from non-residential water customers.

As confirmed in Aqua's response to OSBA-II-4, the Company's allocation of its proposed Act 11 wastewater revenue requirement to individual water service classes reflects the difference between (i) a given wastewater class's total cost of service, as measured by the Company's applicable wastewater cost-of-service study, and (ii) the proposed level of wastewater revenues recovered from that class, summed across all of Aqua's wastewater operations. As such, Aqua's Act 11 allocation methodology properly recovers wastewater subsidies from water customers on a revenue neutral basis, by customer class.

OSBA Statement No. 1, at 17-18.

However, with respect to the magnitude of Aqua PA's proposed Act 11 revenue requirement, Mr. Kalcic testified that Aqua PA's request to recover \$20.839 million of the Company's claimed wastewater revenue requirement from the Company's water service customers is not supported by the record evidence. Mr. Kalcic testified, as follows:

The OSBA disagrees with Aqua's proposed increases to its Base and New Garden Divisions. First, in the OSBA's view, it is inappropriate to limit the overall increase to the Base Division, which includes Rate Zone 1 (or Main Division), to 18.5%, or just 1.09 times the Company's proposed system average increase in water revenues (of 16.9%). Rather, given the magnitude of the under-recovery of Aqua's claimed wastewater revenue requirement, one should expect wastewater customers to receive materially greater increases than water customers in Aqua rate proceedings – at least for the foreseeable future. As such, the OSBA proposes to assign the Base Division an overall increase of \$4.64 million or 24.8%, which is 1.5 times the OSBA's overall recommended increase in water revenues.

Second, I am informed by Counsel that the Company entered into a settlement in the remand portion of Aqua's acquisition of the New Garden Township Sewer Authority (at Docket No. A-2016-2580061) that impacts New Garden proposed rates in this proceeding. More specifically, I am advised that the settlement on remand required Aqua (1) to propose to set its New Garden division rates equal to its Zone 1 wastewater rates, unless the resulting increase would be more than two times the system-

average increase in wastewater rates, in which case (2) Aqua would propose to cap the New Garden division increase at two times the system average increase in wastewater rates. As shown in Schedule BK-2WW, the Company's proposed increase to New Garden is 37.0% or only 1.2 times the system-average increase in wastewater rates of 31.2%. Consistent with the settlement on remand, the OSBA proposes to assign New Garden customers a uniform increase equal to 2.0 times the system average, or 74.6%.

OSBA Statement No. 1, at 15-16 (footnotes omitted).

As a result of the OSBA's proposal to assign additional increases, in aggregate, of \$2.259 million to the Company's Base and New Garden Divisions, Mr. Kalcic testified that the OSBA's overall proposed wastewater increase is \$13.8 million or 37.3%, and its recommended Act 11 revenue requirement is \$18.580 million, or \$2.259 million less than Aqua's proposal. OSBA Statement No. 1, at 16-17. Schedules BK-4WW and BK-6WW show the OSBA's recommended wastewater increases by division, and by customer class, respectively. Schedules BK-4WW and BK-6WW are set forth below.

AQUA PENNSYLVANIA WASTEWATER, INC.

OSBA Recommended Increases in Wastewater Revenues,
by Wastewater Division
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Division</u>	Present	<u>Recomm. Increase</u>	
		<u>Revenue*</u>	<u>Amount</u>	<u>Percent</u>
		1	2	3
1	Base	\$18,675,524	\$4,635,137	24.8%
2	Limerick	\$3,969,764	\$2,968,877	74.8%
3	East Bradford	\$998,191	\$358,379	35.9%
4	Cheltenham	\$7,238,362	\$2,541,306	35.1%
5	East Norriton	\$2,916,336	\$1,157,851	39.7%
6	New Garden	<u>\$2,871,698</u>	<u>\$2,142,222</u>	74.6%
7	Total Sales	\$36,669,875	\$13,803,772	37.6%
8	Contract	\$312,754	\$19,047	6.1%
9	Other Revenues	<u>\$76,434</u>	<u>\$0</u>	0.0%
10	TOTAL	<u>\$37,059,063</u>	<u>\$13,822,819</u>	37.3%

Source: Exh. No. 5-B, Testimony of
Part I Mr. Kalcic

Notes:

* Includes DSIC Revenues.

AQUA PENNSYLVANIA WASTEWATER, INC.

OSBA Recommended Increases in Wastewater Revenues,
by Customer Class
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	Present	Recomm. Increase	
		<u>Revenue*</u>	<u>Amount</u>	<u>Percent</u>
		1	2	3
1	Residential	\$25,848,678	\$10,267,485	39.7%
2	Commercial	\$9,333,222	\$3,373,840	36.1%
3	Industrial	\$3,530	\$1,235	35.0%
4	Public Authority	<u>\$204,412</u>	<u>\$71,601</u>	35.0%
5	Total Sales	\$35,389,842	\$13,714,160	38.8%
6	Contract / Third P.	\$1,592,785	\$108,659	6.8%
7	Other Revenues	<u>\$76,434</u>	<u>\$0</u>	0.0%
8	TOTAL	<u>\$37,059,061</u>	<u>\$13,822,819</u>	37.3%

Source: Exh. No. 5-B, Testimony of
Part II Mr. Kalcic

Notes:

* Includes DSIC Revenues.

Consistent with Aqua PA's proposal to recover Act 11 wastewater subsidies from water customers on a revenue neutral basis by customer class, Mr. Kalcic allocated the OSBA's proposed Act 11 revenue requirement of \$18.580 million to water customers on the same revenue neutral basis by customer class. OSBA Statement No 1, at 18. The OSBA's proposed Act 11 revenue allocation is shown in Table 1, contained in OSBA Statement No. 1, and set forth below.

Table 1

Summary of OSBA's Proposal to Allocate \$18.580 million of
Aqua's Claimed Wastewater Revenue Requirement
to Water Customers
(\$000)

<i>Class</i>	<i>Total WW Cost of Service</i>	<i>OSBA Recommended WW Revenues</i>	<i>OSBA Act 11 Allocation</i>
	(1)	(2)	(3)=(2)-(1)
Residential	\$51,267.1	\$36,116.2	\$15,150.9
Commercial	16,062.8	12,707.1	3,355.7
Industrial	5.2	4.8	0.4
Public Authority	<u>349.2</u>	<u>276.0</u>	<u>73.2</u>
Total Sales	\$67,684.3	\$49,104.1	\$18,580.2

Source: Aqua Exhibit No. 5-B, Part I, and Schedule BK-6WW.

OSBA Statement No. 1, at 18-19.

Mr. Kalcic also updated the OSBA's proposed water service revenue allocation shown in Schedule BK-4W to reflect the OSBA's recommended Act 11 allocation shown above in Table 1. OSBA Statement No.1, at 19. The OSBA's proposed revenue allocation for water service, inclusive of an Act 11 revenue requirement of \$18.580 million, is shown in Schedule BK-7W. *Id.* Schedule BK-7W is set forth below.

AQUA PENNSYLVANIA, INC.

OSBA Recommended Allocation of Aqua's
Requested Increase in Water Revenues,
Inclusive of OSBA's Recommended Act 11 Revenues
(Future Test Period Ending March 31, 2023)

<u>Line</u>	<u>Classification</u>	Present	OSBA	OSBA	Total	%
		<u>Revenue*</u>	<u>Increase</u>	<u>Act 11</u>	<u>Increase</u>	<u>Inc.</u>
		1	2	3	4=2+3	5=4/1
1	Residential	\$333,854,297	\$48,699,128	\$15,150,912	\$63,850,040	19.1%
2	Commercial	\$119,491,326	\$11,308,636	\$3,355,717	\$14,664,353	12.3%
3	Industrial	\$16,630,075	\$3,081,805	\$422	\$3,082,227	18.5%
4	Public	\$8,516,664	\$294,206	\$73,152	\$367,358	4.3%
5	Other Water Util.	\$12,812	\$0	\$0	\$0	0.0%
6	Private Fire Prot.	\$16,153,537	\$328,799	\$0	\$328,799	2.0%
7	Public Fire Prot.	<u>\$6,438,592</u>	<u>\$1,329,034</u>	<u>\$0</u>	<u>\$1,329,034</u>	20.6%
8	Total Sales	\$501,097,303	\$65,041,608	\$18,580,204	\$83,621,812	16.7%
9	Contract Sales	\$7,262,995	\$303,705	\$0	\$303,705	4.2%
10	Other Revenues	<u>\$1,318,393</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	0.0%
11	TOTAL	<u>\$509,678,691</u>	<u>\$65,345,313</u>	<u>\$18,580,204</u>	<u>\$83,925,517</u>	16.5%

Source: Exh. No. 5-A, Schedule Sch. BK-6W,
Part I, Sch. A BK-4W col. 3, less
OSBA's Add'l
WW Class Inc.

Notes:

* Includes DSIC of 7.5%.

Finally, if the Commission awards Aqua a wastewater service revenue requirement less than the Company's requested revenue requirement of \$69.5 million, Mr. Kalcic testified, as follows:

In that event, I would recommend that the Commission direct the Company (i) to leave the OSBA's proposed wastewater class increases unchanged, and (ii) to reduce the Act 11 revenue

allocation shown in column 3 of Schedule BK-7W by scaling back the class revenue requirements shown in column 1 of Table 1 proportionately.

OSBA Statement No. 1, at 19.

C. Tariff Structure

The OSBA is not addressing this issue in this Main Brief.

D. Summary and Alternatives

The OSBA has concluded that Aqua PA's originally filed water COSS is accurate, just, and reasonable.

The OSBA has also concluded that Aqua PA's originally filed wastewater COSS is accurate, just, and reasonable.

However, the OSBA has also concluded, as set forth above, that Aqua PA's proposed water revenue allocation is unjust, unreasonable, does not conform to the results of the Company's water COSS, and violates the requirements of Lloyd.

In the alternative, the OSBA's proposed revenue allocation follows the results of the Company's water COSS, the requirements of Lloyd by moving all customer classes closer to their respective cost of service, and provides a just a reasonable result (at the Company's requested water service revenue increase).

Furthermore, if the Commission awards Aqua PA a water service revenue increase less than the Company's requested amount of \$65.3 million (exclusive of Act 11 considerations), the class increases shown in column 2 of Schedule BK-4W, excluding the Public Fire Protection and Contract Sales, should be proportionally scaled back.

The OSBA agrees with Aqua PA's method of assigning Act 11 wastewater subsidies to the Company's water customer classes, since the proposal recovers Act 11 subsidies on a

revenue neutral basis across customer classes. However, the OSBA disagrees with Aqua's proposed Act 11 revenue requirement of \$20.839 million, and recommends that the Commission limit the Company's Act 11 revenue requirement to no more than \$18.580 million.

Finally, if the Commission awards Aqua a wastewater service revenue requirement less than the Company's requested revenue requirement of \$69.5 million, the Commission should direct the Company (i) to leave the OSBA's proposed wastewater class increases unchanged, and (ii) to reduce the Act 11 revenue allocation shown in column 3 of Schedule BK-7W by scaling back the class revenue requirements shown in column 1 of Table 1 proportionately.

X. Conclusion

Therefore, the OSBA respectfully requests that the ALJ and Commission:

Recover all costs of any approved Aqua PA customer assistance program from the Company's residential class;

Reject Aqua PA's proposed Energy Cost Adjustment Mechanism;

Reject Aqua PA's proposed Purchased Water Adjustment Clause;

Adopt Aqua PA's water cost of service study and wastewater cost of service studies for purposes of this proceeding;

Reject Aqua PA's proposed revenue allocation for water service customers, and adopt the OSBA's class revenue allocation for water service;

Determine that, if the Commission awards Aqua PA an overall water revenue increase less than that requested by the Company, the OSBA's proposed water service increases, excluding those increases assigned to the Public Fire Protection and Contract Sales classes, should be proportionally scaled back;

Adopt Aqua PA's proposed methodology for allocating the Company's Act 11 revenue requirement to water service customers;

Limit Aqua PA's Act 11 revenue requirement to no more than \$18.580 million; and

Determine that, if the Commission awards Aqua PA an overall wastewater revenue requirement less than that requested by the Company, the OSBA's proposed wastewater class increases should remain unchanged, and the Act 11 revenue requirement assigned to water service classes should be reduced by proportionally scaling back Aqua PA's total claimed wastewater cost of service, by wastewater class.

Respectfully submitted,

/s/ Steven C. Gray

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Attorney ID No. 77538

For:
The Small Business Advocate

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Dated: January 14, 2022

APPENDIX A

REVISED Proposed Findings of Facts, Proposed
Conclusions of Law,
Proposed Ordering Paragraphs

Proposed Findings of Facts

- 1) On August 20, 2021, Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. filed Tariff Water-Pa. P.U.C. No. 3 and Original Tariff Sewer-Pa. P.U.C. No. 3 with the Pennsylvania Public Utility Commission. The Tariffs, if approved by the Commission, would increase Aqua PA's total annual operating revenues by \$97,684,824. *October 19, 2021, Prehearing Order of ALJ Mary D. Long*, at 1.
- 2) On September 8, 2021, the Office of Small Business Advocate ("OSBA") filed a formal Complaint in opposition to the Tariffs. *October 19, 2021, Prehearing Order of ALJ Mary D. Long*, at 1.
- 3) In its August 20, 2021, filing, Aqua PA proposed a rider to recover the cost of the Company's customer assistance program proposals. OSBA Statement No. 1, at 20.
- 4) In its August 20, 2021, filing, Aqua PA proposed an Energy Cost Adjustment Mechanism. OSBA Statement No. 1, at 20-22.
- 5) In its August 20, 2021, filing, Aqua PA proposed a Purchased Water Adjustment clause. OSBA Statement No. 1, at 22-25.
- 6) In its August 20, 2021, filing, Aqua PA included a class cost of service study for water service. Aqua PA Statement No. 5, at 3-10.
- 7) In its August 20, 2021, filing, Aqua PA included a separate cost of service study for wastewater service, by wastewater division. Aqua PA Statement No. 5, at 18-21.
- 8) OSBA witness Brian Kalcic calculated the various customer class subsidies at Aqua PA's present and proposed water rates using the Company's water cost of service study. OSBA Statement No. 1, at 7-9 and Schedule BK-3W.
- 9) The subsidies are derived by subtracting each class's cost-of-service based revenue requirement, exclusive of the unrecovered cost of wastewater service (as measured by the Company's water cost of service study) from that class's total revenue contribution (net of any proposed contributions toward wastewater service), at present and the Company proposed rates. OSBA Statement No. 1, at 8.
- 10) Under the Company's proposed revenue allocation, only the Commercial, Industrial and Public Fire classes would exhibit movement toward cost of service. The Residential, Public, Other Water Utilities and Private Fire classes would move further from cost of service under Aqua PA's proposed revenue allocation. OSBA Statement No. 1, at 8-9.
- 11) Mr. Kalcic sponsored a just and reasonable revenue allocation (at the Company's requested water revenue increase), exclusive of any allocation of Act 11 subsidies, which moved all water customer classes closer to their respective cost of service. OSBA Statement No. 1, at 9-11, Schedule BK-4W and Schedule BK-5W.

- 12) Since the recommended Aqua PA water service revenue increase is less than the Company's requested amount of \$65.3 million (exclusive of Act 11 considerations), the class increases shown in column 2 of Schedule BK-4W, excluding the Public Fire Protection and Contract Sales, are proportionally scaled back. OSBA Statement No. 1, at 11-12.
- 13) Aqua PA's request to recover \$20.839 million of the Company's claimed wastewater revenue requirement from the Company's water service customers is not supported by the record evidence. OSBA Statement No. 1, at 13-14.
- 14) Aqua PA should be allowed to recover no more than \$18.580 million of the Company's claimed wastewater revenue requirement from water customers, on a revenue neutral basis by customer class. OSBA Statement No. 1, at 15-17.
- 15) Since the recommended Aqua PA wastewater service revenue requirement is less than the Company's requested revenue requirement of \$69.5 million, the OSBA's proposed wastewater class increases are to remain unchanged, and the Act 11 revenue allocation shown in column 3 of Schedule BK-7W is reduced by scaling back the class revenue requirements that are shown in column 1 of Table 1 proportionately. OSBA Statement No. 1, at 19.

Proposed Conclusions of Law

- 1) Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”
- 2) The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.” *Lower Frederick Township v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).
- 3) Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008). “Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case.” *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.
- 4) Section 523 of the Public Utility Code, 66 Pa. C.S. § 523, requires the Commission to “consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates.” In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate, and reasonable service. “[I]n exchange for the utility’s provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility’s investors In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs.” *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S. § 1501. As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.” 66 Pa. C.S. § 526(a).
- 5) The only just, reasonable, and non-discriminatory result is for all costs of any Company residential-only customer assistance program to be recovered solely from the Company’s residential class.
- 6) Aqua PA’s proposed Energy Cost Adjustment Mechanism is unjust, unreasonable, and violates the prohibition against single issue ratemaking.

- 7) Aqua PA's proposed Purchased Water Adjustment Clause is unjust, unreasonable, and violates the prohibition against single issue ratemaking.
- 8) Aqua PA's water cost of service study is just and reasonable.
- 9) Aqua PA's wastewater cost of service studies are just and reasonable.
- 10) Aqua PA's proposed customer class revenue allocation for water service customers is unjust and unreasonable.
- 11) The customer class revenue allocation for water service customers proposed by the OSBA is just, reasonable, and meets the legal requirements set forth by the Pennsylvania Commonwealth Court.
- 12) Aqua PA's proposed methodology for allocating the Company's Act 11 revenue requirement to water service customers is just and reasonable, as the temporary subsidies afforded to specific wastewater classes should be recovered from the Company's corresponding water service classes.

Proposed Ordering Paragraphs

- 1) All costs of the recommended Aqua PA customer assistance programs shall exclusively be recovered from the Company's residential class.
- 2) Aqua PA's proposed Energy Cost Adjustment Mechanism is rejected.
- 3) Aqua PA's proposed Purchased Water Adjustment Clause is rejected.
- 4) Aqua PA's water cost of service study and wastewater cost of service studies are adopted for the purposes of this proceeding.
- 5) Aqua PA's proposed revenue allocation for water service customers is rejected.
- 6) The OSBA's proposed revenue allocation for water service customers is accepted.
- 7) The OSBA's proposed water service increases, excluding those increases assigned to the Public Fire Protection and Contract Sales classes, are proportionally scaled back.
- 8) Aqua PA's proposed methodology for allocating the Company's Act 11 revenue requirement to water service customers is accepted.
- 9) Aqua PA's Act 11 revenue requirement is set at \$18.580 million.
- 10) The OSBA's proposed wastewater class increases remain unchanged, and the Act 11 revenue requirement assigned to water service classes is reduced by proportionally scaling back Aqua PA's total claimed wastewater cost of service, by wastewater class.

APPENDIX B

Office of Small Business Advocate List of Evidence

**LIST OF THE EVIDENCE OFFERED BY THE
OFFICE OF SMALL BUSINESS ADVOCATE**

The Office of Small Business Advocate (“OSBA”) identified and entered the following evidence into the Record in the above-captioned proceedings at the evidentiary hearing held on December 20, 2021:

- OSBA Statement No. 1: the Direct Testimony of Brian Kalcic, which includes Exhibit BK-1W (containing Schedules BK-1W through BK-7W) and Exhibit BK-1WW (containing Schedules BK-1WW through BK-6WW), Referenced Interrogatories, an Appendix, and Mr. Kalcic’s signed Verification;
- OSBA Statement No. 1-R: the Rebuttal Testimony of Brian Kalcic, which includes Exhibit BK-1R (containing Schedule BK-1R), and Mr. Kalcic’s signed Verification; and
- OSBA Statement No. 1-S: the Surrebuttal Testimony of Brian Kalcic, which includes Mr. Kalcic’s signed Verification.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : **Docket Nos. R-2021-3027385**

v.

R-2021-3027386

**Aqua Pennsylvania, Inc. and Aqua
Pennsylvania Wastewater, Inc.**

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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