



COMMONWEALTH OF PENNSYLVANIA

March 4, 2022

**E-FILED**

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

**Re: Aqua Pennsylvania Wastewater, Inc. Section 1329 Application for the  
Acquisition of East Whiteland Township's Wastewater System Assets / Docket  
No. A-2021-3026132**

Dear Secretary Chiavetta:

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

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

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

Sincerely,

/s/ Erin K. Fure

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

*Enclosures*

cc: Parties of Record  
Brian Kalcic

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua PA Wastewater, Inc.	:	
Section 1329 of the Pennsylvania Public	:	
Utility Code, 66 Pa. C.S. § 1329, for the	:	
Acquisition of East Whiteland Township,	:	A-2021-3026132
Chester County Sanitary Wastewater Collection	:	
System	:	

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**OFFICE OF SMALL BUSINESS ADVOCATE  
PREHEARING MEMORANDUM**

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**I. INTRODUCTION**

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

Please address all correspondence as follows:

Erin K. Fure  
Assistant Small Business Advocate  
Office of Small Business Advocate  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, Pennsylvania 17101  
(717) 783-2525  
(717) 783-2831 (fax)  
[efure@pa.gov](mailto:efure@pa.gov)

## **II. FILING BACKGROUND**

On July 23, 2021, Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”) filed an Application for approval of the acquisition of the wastewater system assets owned by East Whiteland Township (“EWT” or “Township”) to Aqua (“*Application*”).

On August 18, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On August 20, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

On August 25, 2021, Aqua submitted answers to the Bureau of Technical Utility Services’ (“TUS”) requests for additional information.

On August 26, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On August 26, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

On August 26, 2021, the OSBA filed a Notice of Appearance, Notice of Intervention, and Public Statement.

On September 2, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On September 2, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

On September 16, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On September 16, 2021, a Secretarial Letter was issued granting Aqua’s request to extend

the initial review period.

On September 17, 2021, the Office of Consumer Advocate (“OCA”) filed a Notice of Appearance, Protest and Public Statement.

On September 23, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On September 24, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

On September 30, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On October 1, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

The Commission’s Bureau of Investigation and Enforcement (“I&E”) filed its Notice of Appearance on October 4, 2021.

On October 7, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On October 7, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

On October 14, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On October 15, 2021, a Secretarial Letter was issued granting Aqua’s request to extend the initial review period.

On October 21, 2021, Aqua sent a letter to the Secretary of the Commission requesting an extension of the initial review period.

On October 22, 2021, a Secretarial Letter was issued granting Aqua's request to extend the initial review period.

On October 29, 2021, Aqua submitted answers to TUS's requests for additional information.

On December 17, 2021, Aqua submitted answers to TUS's requests for additional information.

By Secretarial Letter dated December 20, 2021, the *Application* was conditionally accepted by the Commission.

On December 21, 2021, Aqua filed a letter detailing its compliance with the December 20, 2021 Secretarial Letter conditionally accepting the *Application*.

On January 25, 2022, Aqua filed a letter submitting a certificate verifying service of the *Application* on designated entities as well as the proof of publication.

On February 3, 2022, EWT filed a Petition to Intervene.

On February 4, 2022, a Secretarial Letter was issued which finalized acceptance of the *Application* and set March 7, 2022 as the deadline for protests or petitions to intervene.

On February 4, 2022, a Notice was issued that a telephonic Prehearing Conference was scheduled for March 8, 2022 before Administrative Law Judge ("ALJ") Marta Guhl.

On February 4, 2022, a Protest was filed by Mr. Richard J. Gage.

On February 23, 2022, ALJ Guhl issued a Prehearing Conference Order.

### **III. IDENTIFICATION OF WITNESSES AND TENTATIVE ISSUES**

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

Brian Kalcic  
Excel Consulting  
7330 Dorset Avenue  
St. Louis, MO 63105  
(314) 863-3209  
[excel.consulting@sbcglobal.net](mailto:excel.consulting@sbcglobal.net)

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

As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of the Company and other parties through discovery, through the cross-examination of witnesses appearing for those parties, through the filing of testimony, and through briefing. The OSBA will particularly focus on any issue where the impact on the interests of the Company's small business consumers would be unjustifiably different than, or disproportionate to, the impact on another class of customers, or otherwise lacking in reasonableness or basic fairness. The OSBA will also focus on the rates applicable to acquired customers following the closing of the proposed acquisition, including how long such rates are proposed to remain in effect. The OSBA submits that further information is required to determine the impact on small business customers.

The OSBA reserves the right to pursue additional issues as they arise throughout the proceeding.

**IV. SERVICE OF DOCUMENTS**

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date<sup>1</sup> as satisfying the in-hand requirement. The OSBA requests that electronic copies be provided to its witness identified above. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witnesses identified above.

**V. DISCOVERY**

The OSBA does not propose any discovery modifications in this proceeding, but will work with the parties to develop any mutually agreeable discovery modifications.

**VI. SETTLEMENT**

The OSBA is willing to continue to engage in settlement discussions at the appropriate time, as necessary.

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

**VII. HEARING AND BRIEFING SCHEDULE**

The OSBA will cooperate with the other parties to develop a mutually agreeable procedural schedule.

Respectfully submitted,

/s/ Erin K. Fure

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

Office of Small Business Advocate  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, PA 17101

Dated: March 4, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Aqua Pennsylvania Wastewater, Inc. Section** :  
**1329 Application for the Acquisition of East** :  
**Whiteland Township’s Wastewater System** : **Docket No. A-2021-3026132**  
**Assets** :  
:

**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).

Laura Antinucci, Esquire  
Christine Maloni Hoover, Esquire  
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/s/ Erin K. Fure

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

Dated: March 4, 2022