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March 4, 2022

Via electronic filing only

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105

**RE: Docket No. A-2021-3026132– Application of Aqua Pennsylvania Water,
Inc. to Acquire the Wastewater System Assets of East Whiteland
Township**

Dear Secretary Chiavetta:

We are counsel East Whiteland Township in the above-referenced matter and are submitting, with this letter, the Township's Pre-hearing Memorandum. A copy of this document is being served upon all parties of record via electronic mail.

Very truly yours,

Matthew S. Olesh

cc: Administrative Law Judge Marta Guhl
Athena DelVillar, Legal Assistant for Office of the Administrative Law Judge
All parties of record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania Wastewater, Inc. under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a), for approval of (1) the transfer, by sale, of East Whiteland Township’s wastewater system assets situated within the Township of East Whiteland, Chester County, Pennsylvania, to Aqua Pennsylvania Wastewater, Inc., (2) the rights of Aqua Pennsylvania Wastewater, Inc. to begin to offer or furnish wastewater service to the public in East Whiteland Township, Chester County, Pennsylvania; and (3) an order approving the acquisition that includes the ratemaking rate base of the East Whiteland Township wastewater system assets pursuant to Section 1329(c)(2) of the Public Utility Code; (4) approval of contracts, including assignment of contracts, between Aqua and East Whiteland Township, pursuant to Section 507 of the Public Utility Code; and (5) approval of a contract between affiliated interests, pursuant to Section 2102 of the Public Utility Code.

Docket No. A-2021-3026132

PREHEARING MEMORANDUM OF EAST WHITELAND TOWNSHIP

East Whiteland Township (“East Whiteland” or the “Township”), by and through its attorneys, Obermayer Rebmann Maxwell & Hippel LLP, submits this prehearing memorandum pursuant to the Prehearing Conference Order in advance of the telephonic prehearing conference schedule for Tuesday, March 8, 2022 in the above-captioned matter.

I. Background

These proceedings concern the application of Aqua Pennsylvania Wastewater, Inc. (“Aqua”) for approval to acquire the wastewater system assets of East Whiteland respectively pursuant to Sections 507, 1102 and 1329 of the Pennsylvania Public Utility Code dated July 23, 2021.

By Secretarial Letter dated December 20, 2021, the Commission, *inter alia*, conditionally accepted Aqua’s application. On February 4, 2022, the Commission, by Secretarial Letter,

finally accepted Aqua's applications for filing and assigned Administrative Law Judge Marta Guhl to preside over the proceeding. An initial telephonic prehearing conference for the Application was scheduled for Tuesday, March 8, 2022. Additionally, pursuant to the Prehearing Conference Order issued by Judge Guhl, all parties must file and serve their prehearing memoranda on or before 12:00 p.m. Friday, March 4, 2022.

On February 3, 2022, East Whiteland filed its Petition to Intervene to adequately address the interests of the Township in this proceeding, and consequently submits this prehearing memorandum.

II. Issues

A. Approval of Application

Issue: Should the Pennsylvania Public Utility Commission approve Aqua's application to (i) acquire the wastewater system assets of East Whiteland and (ii) begin to offer, render, or furnish wastewater service to the public in East Whiteland?

East Whiteland's Position: The Commission should issue a Certificate of Public Convenience approving the acquisition because Aqua's acquisition of the Township's wastewater system assets is necessary or proper for the service, accommodation, convenience or safety of the public. The public benefits of this acquisition include, but are not limited, to the following:

1. The Township can exit the sanitary sewer business and instead focus its resources on other core government functions while ensuring safe, reliable, and professional service at affordable rates for its residents;
2. Benefits from Aqua's expertise, long-standing capital improvement programs, and its experience in improving systems with throughout the Commonwealth to address capital improvements needed over time in the Township;

3. Township residents will benefit from enhanced customer service and operational functions through expanded customer service hours, additional payment options (including by phone or online), access to Aqua's Helping Hand low-income assistance program, and Aqua's team of experienced water and wastewater professionals;
4. Aqua's proven record of environmental stewardship for the operation of wastewater systems; and
5. Regulation of the service provided to Township's customers will fall under Commission jurisdiction, which will ensure regulatory oversight, require approval for all rate increases, and provide significant consumer protections.

B. Ratemaking Rate Base

Issue: Pursuant to Section 1329 of the Code, what is the ratemaking rate base of the wastewater system assets of the Township?

East Whiteland's Position: Pursuant to Section 1329 of the Code, Aqua shall be permitted to use \$54,930,000 for ratemaking rate base purposes for the acquired wastewater system assets.

C. Validity of Contracts

Issue: Pursuant to Section 507 of the Code, is the Asset Purchase Agreement dated January 20, 2021 between Aqua and East Whiteland valid, reasonable, and otherwise lawful?

East Whiteland's Position: The Asset Purchase Agreement dated January 8, 2021 between Aqua and the Township is valid, reasonable, and otherwise lawful under Section 507 of the Code.

III. Settlement

East Whiteland is willing to address settlement of all or part of the proceeding with the other parties.

V. **Witnesses**

East Whiteland expects to present the testimony of the following witnesses:

John Nagel,
Township Manager for East Whiteland
209 Conestoga Road
Frazer, PA 19355

Jerome C. Weinert, AUS Consultants
Utility Valuation Expert for East Whiteland
8555 West Forest Home Avenue, Suite 201
Greenfield, WI 53228

However, the Township respectfully reserves its right to call additional witnesses, if necessary, and agrees to notify Judge Guhl and the parties promptly should the Township determine that any additional witnesses must be called.

VI. **Litigation Schedule**

East Whiteland agrees to work with the parties to develop a litigation schedule for this proceeding.

Respectfully submitted,

/s/ Thomas Wyatt

Thomas Wyatt, Esquire (PA I.D. 89342)
Matthew S. Olesh, Esquire (PA I.D. 206553)
Sydney N. Melillo, Esquire (PA I.D. 328031)

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Counsel for East Whiteland Township

Dated: March 4, 2022

CERTIFICATE OF SERVICE

I, Matthew S. Olesh, Esq., hereby certified that I have served a true and correct copy of the foregoing Prehearing Memorandum upon the following parties by electronic mail:

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/s/ Matthew S. Olesh

Dated: March 4, 2022