



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 4, 2022

Via Electronic Filing

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

Re: Application of Aqua PA Wastewater, Inc. Pursuant to Section 1329 of the
Public Utility Code for Approval of its Acquisition of East Whiteland
Township, Chester County Sanitary Wastewater Collection System
Docket No. A-2021-3026132
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Prehearing Memorandum of the Bureau of Investigation and Enforcement (I&E)** for the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Carrie B. Wright'.

Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 208185
(717) 783-6156
carwright@pa.gov

CBW/ac
Enclosures

cc: Administrative Law Judge Marta Guhl (via e-mail – mguhl@pa.gov)
Athena DelVillar, Legal Assistant (via e-mail – sdelvillar@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua PA Wastewater, :
Inc. Pursuant to Section 1329 of the :
Public Utility Code for Approval of its : Docket No.: A-2021-3026132
Acquisition of East Whiteland :
Township, Chester County Sanitary :
Wastewater Collection System :

**PREHEARING MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE MARTA GUHL:

In accordance with the Prehearing Conference Order dated February 23, 2022, the Bureau of Investigation and Enforcement (“I&E”) hereby submits this Prehearing Memorandum. The I&E prosecutor assigned to this proceeding is Carrie B. Wright. Ms. Wright may be contacted as follows:

By Mail: Carrie B. Wright
 Pennsylvania Public Utility Commission
 Commonwealth Keystone Building
 400 North Street, 2nd Fl.
 Harrisburg, PA 17120

By E-mail: carwright@pa.gov

Telephone: (717) 783-6156

I. BACKGROUND

On July 23, 2021, Aqua Pennsylvania Wastewater, Inc. (Aqua or Company) filed with the Pennsylvania Public Utility Commission (Commission) its Application pursuant to Sections 1102 and 1329 of the Public Utility Code (Code), requesting that the Commission (1) approve Aqua's acquisition of the wastewater system assets of East Whiteland Township; (2) approve the right of Aqua to begin to offer or furnish wastewater service in the requested service territory; and (3) in its order approving the acquisition, include the ratemaking rate base of the Assets as determined under Section 1329(c)(2) of the Public Utility Code.

By Secretarial Letter dated December 20, 2021, the Commission indicated that the Application would be accepted for filing only on a conditional basis. The Secretarial Letter, among other things, directed Aqua to ensure notice be provided to all current East Whiteland Township wastewater customers.

On January 25, 2022, Aqua served the Commission's Secretary with notice certifying that it fulfilled the conditions outlined in the Secretarial Letter of December 20, 2021. By way of a Secretarial Letter of February 4, 2022, the Commission informed Aqua that its Application was accepted for filing. On February 19, 2022, the Commission published notice of Aqua's Application in the Pennsylvania Bulletin, and it established a protest deadline of March 7, 2022. Thereafter, Aqua's Application was assigned to the Office of Administrative Law Judge for establishment of an evidentiary record culminating in a Recommended Decision for the Commission's consideration.

A telephonic Prehearing Conference is now scheduled for March 8, 2022, at 10:00 a.m., before ALJ Marta Guhl (the ALJ). In accordance with the Prehearing Conference Order issued by the ALJ, I&E now respectfully submits this prehearing memorandum.

II. ISSUES

Based upon a preliminary review of the filing, I&E has identified the following areas of inquiry, representing a listing of potential issues at this time. However, I&E reserves the right to address such other issues when those issues arise:

1. Errors and omissions in the Fair Market Appraisals;
2. Cost of Service Study;
3. Easements and Other Property Rights;
4. Comparison of Rate Base per Customer;
5. Benefits and detriments of the acquisition;
6. Whether the transaction is in the public interest under 66 Pa. C.S. § 1102 of the Public Utility Code;
7. Evaluation of Aqua's claimed rate base; and
8. Future Base Rate Implications.

I&E notes that this listing of issues is provided without analysis of the positions of all parties to this proceeding and while the discovery process is still underway. Accordingly, I&E necessarily reserves the right to supplement its issue list, to remove issues from this list, and to reassign issues between witnesses as necessary to facilitate the development of a full record in this case. Additionally, most of the issues raised by I&E will be supported by the Direct Testimony of I&E witnesses. If there are issues of Commission policy or legal interpretation that are not properly the subject of testimony or factual issues that are clear on the record and need not be supported by testimony, I&E reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed in Brief.

III. WITNESSES

It is currently expected that I&E may call the following witnesses without being limited thereto:

- Christopher Keller, Fixed Utility Financial Analyst
- Ethan H. Cline, Fixed Utility Valuation Engineer

The I&E witnesses may be contacted through the contact information listed above for Ms. Wright. I&E notes that this listing of witnesses is provided without analysis of the positions of all parties to this proceeding and while the discovery process is still underway. Accordingly, I&E necessarily reserves the right to supplement its witness list, and to remove witnesses from this list, as necessary to facilitate the development of a full record in this case. The ALJs and all active parties will be notified of any amendments to the I&E witness list.

IV. SCHEDULE

I&E will work with the Parties and the ALJ to develop a procedural schedule in this proceeding.

V. DISCOVERY

I&E will accept the discovery modifications as proposed by the ALJ in the Prehearing Conference Order. In addition, I&E will consider any other modifications proposed by the other parties in this proceeding.

VI. SERVICE OF DOCUMENTS

The Commission's March 20, 2020 Emergency Order,¹ which was controlling regarding electronic service of documents, expired on September 30, 2021. In anticipation of

¹ Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements* ("March 20 Order").

the expiration of the March 20 Order, the Commission issued a new Order on September 15, 2021 regarding the regulations controlling service requirements.² Pursuant to the September 15 Order, the Commission recognized, for purposes of satisfying service of documents requirements:

... that some of the measures we implemented significantly benefitted the operational needs of the Commission, the public and the regulated community. Specifically, the electronic service requirements we adopted were essential to ensuring continued, uninterrupted operations, providing needed flexibility. Therefore, in order to maintain that flexibility to respond to operational demands, we will waive certain regulatory service provisions, consistent with our previous actions.³

Further, the Commission stated:

... some of the operational restraints occasioned by the pandemic remain. ... Toward this end, we will continue to permit electronic service *by* the Commission on all parties, regardless of whether a particular party has agreed to electronic service. ... Additionally, service *on* Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise.⁴

Therefore, for purposes of satisfying in-hand service requirements for discovery responses, prepared testimony, briefs and other documents; while operational restraints continue during this proceeding, and consistent with the Commission's September 15 Order, I&E requests that electronic delivery of documents continue to satisfy the service requirements without the need to follow up with service of a hard copy of documents.

² Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements* ("September 15 Order").

³ September 15 Order, p. 3.

⁴ *Id.*, p. 6.

VII. SETTLEMENT

I&E intends to participate in any settlement discussions and is willing to work with the parties in an attempt to reach a resolution of any or all issues.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carrie B. Wright".

Carrie B. Wright
Prosecutor
PA Attorney ID No. 308185
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Dated: March 4, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua PA Wastewater, :
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Township, Chester County Sanitary :
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CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated March 4, 2022, in the manner and upon the persons listed below:

Served via Electronic Mail Only


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