



COMMONWEALTH OF PENNSYLVANIA

March 7, 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 Reply Exceptions on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings.

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 ID No. 77538

*Enclosures*

cc: Brian Kalcic  
Office of Special Assistants  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REPLY EXCEPTIONS  
ON BEHALF OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

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**Date: March 7, 2022**

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## **I. Introduction**

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, at which time Mr. Kalcic’s Direct Testimony, Rebuttal Testimony, and Surrebuttal Testimony were admitted into the record.

On January 11, 2022, the OSBA submitted its Main Brief.

On January 21, 2022, the OSBA submitted its Reply Brief.

On February 18, 2022, ALJ Long issued her Recommended Decision (“RD”).

On February 28, 2022, the OSBA filed Exceptions to the RD.

The OSBA submits the following Reply Exceptions in response to the Exceptions filed by Aqua PA.

## II. Reply Exceptions

### **Reply to Aqua PA Exception No. 9: The ALJ properly recommended reducing the Act 11 subsidy to be paid by the Company's water customers. (Aqua PA Exceptions, at 31-34)**

In its Exceptions, Aqua PA argued that “the Company’s proposed Act 11 revenue allocation, which proposed to allocate approximately 30% or \$21 Million of the Company’s proposed revenue requirement from wastewater to water rates” was just and reasonable. Aqua PA Exceptions, at 31-33. The Company requested the Commission to reverse the ALJ’s recommendation that the Act 11 subsidy should be reduced to approximately \$10 million in favor of Aqua PA’s proposal. *Id.*, at 34.

However, with respect to the magnitude of Aqua PA’s proposed Act 11 revenue requirement, OSBA witness Brian 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 (emphasis added) (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.

Consequently, the OSBA supports the ALJ's recommendation to reduce the Act 11 subsidy paid by Aqua PA's water customers. Although the OSBA recommended a subsidy of \$18.580 million at Aqua PA's requested revenue requirement level, the OSBA does not oppose the magnitude of the Act 11 subsidy reduction recommended by the ALJ<sup>[MOU1]</sup>.

**Reply to Aqua PA Exception No. 11: The ALJ properly recommended rejection of the Company's proposed Energy Cost Adjustment Mechanism and its proposed Purchased Water Adjustment Clause. (Aqua PA Exceptions, at 35-36)**

1. The Energy Cost Adjustment Mechanism ("ECAM")

In the Company's Exceptions, Aqua PA defended its proposed ECAM as a reconcilable rider that is lawful as it satisfies "Pennsylvania law and Section 1307(a) of the Public Utility Code, 66 Pa.C.S. § 1307(a)." Aqua PA Exceptions, at 36. Furthermore, argued the Company, the proposed ECAM is a "well-recognized exception to the prohibition against single-issue ratemaking." *Id.*

The OSBA respectfully disagrees with Aqua PA on the issue of the ECAM. Mr. Kalcic summarized Aqua PA'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, contrary to the assertions of Aqua PA, the ECAM proposal provides a classic example of single-issue ratemaking since it would move consideration of a *single* ratemaking expense outside the context of a traditional base rate proceeding. Therefore, the ECAM proposal is wholly inappropriate.

Finally, contrary to Aqua PA's assertion at page 36 of the Company's Exceptions, the Commission is certainly aware that energy costs are rising. It would be entirely unreasonable to disincentivize Aqua PA to aggressively control the Company's energy costs. The ALJ's recommendation to reject Aqua PA's ECAM proposal is fully supported by the OSBA.

2. The Purchased Water Adjustment Clause ("PWAC")

In the Company's Exceptions, Aqua PA also defended its proposed PWAC as a reconcilable rider that is lawful as it satisfies "Pennsylvania law and Section 1307(a) of the Public Utility Code, 66 Pa.C.S. § 1307(a)." Aqua PA Exceptions, at 36. Furthermore, argued the Company, the proposed PWAC is a "well-recognized exception to the prohibition against single-issue ratemaking." *Id.*

Once again, the OSBA respectfully disagrees with Aqua PA on the issue of the PWAC.

Mr. Kalcic explained the Company's proposed PWAC, 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.

Furthermore, 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.

Ultimately, Aqua PA's proposed PWAC 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. Therefore, purchased water costs constitute only **0.7%** of the Company's total claimed costs. Any changes in water costs will have a minimal impact on Aqua PA's earnings. OSBA Statement No. 1, at 24.

The OSBA respectfully submits that, just as with the Company's ECAM proposal, Aqua PA's PWAC constitutes single-issue ratemaking since it would move consideration of a *single* ratemaking expense outside the context of a traditional base rate proceeding. Therefore, the PWAC clause is wholly inappropriate.

The ALJ's recommendation to reject Aqua PA's PWAC proposal is fully supported by the OSBA.

### **III. Conclusion**

For the reasons set forth herein, the OSBA respectfully requests that the Commission deny Aqua PA Exception No. 9 and Exception No. 11.

Respectfully submitted,

/s/ Steven C. Gray

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Dated: March 7, 2022

**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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