

COMMONWEALTH OF PENNSYLVANIA



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March 7, 2022

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 (Water)  
C-2021-3028466 (Water)  
R-2021-3027386 (Wastewater)  
C-2021-3028467 (Wastewater)

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceedings.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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cc: The Honorable Mary D. Long (**email only**)  
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Certificate of Service

\*325082

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
 : Docket Nos. R-2021-3027385 (Water)  
 v. : C-2021-3028466 (Water)  
 : R-2021-3027386 (WW)  
 Aqua Pennsylvania, Inc. and Aqua : C-2021-3028467 (WW)  
 Pennsylvania Wastewater, Inc. :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7<sup>th</sup> day of March 2022.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos. R-2021-3027385 (Water)
v.	:	C-2021-3028466 (Water)
	:	R-2021-3027386 (WW)
Aqua Pennsylvania, Inc. and Aqua	:	C-2021-3028467 (WW)
Pennsylvania Wastewater, Inc.	:	

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REPLY EXCEPTIONS OF THE  
OFFICE OF CONSUMER ADVOCATE

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## I. INTRODUCTION

The Office of Consumer Advocate (OCA) submits these Replies to the Exceptions of Aqua Pennsylvania Wastewater, Inc. (Aqua), Masthope Mountain Community Association (Masthope), the Office of Small Business Advocate (OSBA), Aqua Large Users Group (Aqua LUG). For the reasons herein and in the OCA's Exceptions, the OCA respectfully requests that the Commission deny the Exceptions addressed herein, and grant the OCA's Exceptions and Reply Exceptions.

## II. REPLIES TO EXCEPTIONS

### **Rate Base**

Reply to Aqua Exc. 2     ALJ Long Was Correct to Disallow The Company's Water Rate Base Claim Related to the Acquisition of the Borough of Phoenixville Water System. R.D. at 39-44; OCA M.B. at 17-21; OCA R.B. at 6-8.

ALJ Long correctly removed \$2,437,305 from Aqua's rate base because Aqua failed to demonstrate that the proposed Phoenixville Water Acquisition Adjustment satisfied the requirements necessary under 66 Pa. C.S. § 1327(a). R.D. at 44. To recover the costs of this acquisition, Aqua was required to present substantial evidence that the Borough was not maintaining reasonable service, and Aqua failed to do so. *Id.* There are no facts on the record to indicate that there were any issues with the Phoenixville system when Aqua acquired it that would meet all of the requirements in 66 C.S. § 1327(a). OCA M.B. at 17-21; OCA R.B. at 6-8. The only maintenance issues discussed in the record regarding the Phoenixville system involved manually reading meters, unaccounted for water, and a need to repair or replace 32 out of 105 fire hydrants. R.D. at 42. As ALJ Long correctly found, these facts alone are not sufficient to indicate that the Borough was not rendering reasonable and adequate service to its customers, including its extraterritorial customers, at the time that it was acquired by Aqua. R.D. at 42; OCA R.B. at 6-7.

Also, the Company incorrectly claimed that the Commission "directed" the Borough to consider selling its extraterritorial assets, indicating that the Borough was not providing adequate

service. Aqua Exc. at 16. The Commission did not “direct” the Borough to consider selling. *Id.* As ALJ Long noted, the Commission had simply "observed" that the Borough had the "option to seek relief from regulatory burdens" by transferring its systems to Aqua. R.D at 42. Since there is no evidence in the record that the Borough was providing inadequate service at the time of the Company’s acquisition, ALJ Long properly rejected the Company’s proposal for a positive acquisition adjustment for Phoenixville’s wastewater assets, along with its associated \$121,865 amortization expense. OCA M.B. at 21; OCA Table II (Water).

### **Expenses**

Reply to Aqua Exc. 6: ALJ Long Was Correct to Disallow Recovery of the Costs of the Company’s Supplemental Executive Retirement Plan (SERP) from Ratepayers. R.D. at 63-64; OCA M.B. at 47-50; OCA R.B. at 23-24.

ALJ Long correctly found that the SERP is not associated with retaining or recruiting executive talent, nor is it connected to performance metrics that relate to the provision of utility service. R.D. at 63. ALJ Long correctly found that the Company should not recover the costs of the SERP from ratepayers. Costs totaling \$695,612 for water utility and \$57,050 for wastewater utility were appropriately disallowed. *Id.*; OCA Table II (Water); OCA Table II (Wastewater).

Only costs that are related to the provision of public utility service may be recovered from ratepayers. *Pa. P.U.C. v. Pennsylvania American Water Co.*, 1993 Pa. P.U.C. LEXIS 79 at \*121-123 (*PAWC 1993*). As ALJ Long correctly found, the SERP is neither necessary nor associated with recruiting or retaining executive talent. R.D. at 63. The SERP is not associated with employee performance metrics related to the provision of utility service. *Id.* The SERP is not associated with cost-containment or with the maintenance of high-quality service. *Id.* Therefore, there is no reasonable basis to permit recovery of the costs associated with the SERP from ratepayers. R.D. at 63; OCA M.B. at 50; OCA R.B. at 24.

The Company itself indicates that the SERP has absolutely no connection to the provision of utility service, to customer service, or to attracting and retaining new employees. OCA M.B. at 47-50; OCA R.B. at 23-24. Aqua admits that the SERP is not a “current recruiting tool” and that the highly compensated executives who receive compensation from the SERP receive it *regardless of whether they met any incentives related to utility service during their careers*. Aqua Exc. at 26. Even so, Aqua argues that the SERP should be included in rate recovery because excluding the program would “disincentivize utilities from changing or eliminating post-employment benefits, if the ongoing costs of a discontinued program may no longer be recoverable.” Aqua Exc. at 26. Aqua’s argument should be rejected. It has no basis in Commission precedent because it ignores that compensation programs wholly disconnected from utility service should never be funded, whether those programs are discontinued or current. OCA M.B. at 47-48; OCA R.B. at 23-24. The Commission frequently approves compensation programs and post-employment benefits when they do have a relationship to utility service. Unlike those programs, the SERP applies only to a limited number of highly compensated individuals hired prior to April 2003, and these individual’s compensation has no ties to utility service. OCA M.B. at 48.

The Company also argues that while the SERP was closed to new participants starting in April 2003, it still incurs costs for SERP. Aqua Exc. at 25-26. Not all costs incurred by Aqua are recoverable, thus, the fact that Aqua continues to incur costs under this program does not mean that Aqua’s customers, who receive no benefit from and have no ties to the SERP, should fund these costs. OCA M.B. at 47-48; OCA R.B. at 23-24. ALJ Long correctly recommended removing the Company’s FPFTY expenses of \$695,612 for water and \$57,050 for wastewater. R.D. at 63-64; OCA M.B. at 49; OCA R.B. at 24; OCA Table II (Water); OCA Table II (Wastewater Base).

Reply to Aqua Exc. 7: ALJ Long Correctly Removed The Company's General Price Level Adjustment. R.D. at 70-71; OCA M.B. at 28-20; OCA R.B. at 14-15.

ALJ Long correctly disallowed the Company's proposed general price level adjustment, which it applied to 22% of total operating expenses. R.D. at 70-71. Aqua's argument that the Commission has approved similar inflation adjustments by the Company in the past and should do so again ignores that the Commission has historically required utilities to provide greater specificity about these adjustments which Aqua has not done. OCA M.B. at 28-30; OCA R.B. at 14. Aqua's claim that the ALJ "ignores" Commission precedent by disallowing this general inflation adjustment is incorrect. Aqua Exc. at 27. The Commission has historically disallowed speculative inflation factors. *Pa. P.U.C. v. Philadelphia Elec. Co.*, 58 Pa. P.U.C. 7 (1983) (*PECO 1983*); *National Fuel Gas Dist. Corp. v. Pa. P.U.C.*, 677 A.2d 861 (Pa. Cmwlth. 1986) (*NFG 1986*). Aqua provided only three examples of expenses that have grown at rates which exceed the Company's proposed inflation factor. Aqua St. 3R at 3-4. The proposed inflation adjustment should not be approved because Aqua has provided no evidence about the other operating expenses to which the inflation factor would be applied. R.D. at 70; OCA M.B. at 30; OCA R.B. at 15. ALJ Long correctly found that approving the Company's inflation adjustment would contradict Commission precedent requiring specificity. R.D. at 70; *PECO 1983*; *NFG 1986*.

Further, ALJ Long's concern about setting a precedent which would allow large utilities such as Aqua to apply a general inflation factor to unspecified expenses is well-founded. R.D. at 70. If the Commission were to approve Aqua's entire proposed inflation adjustment based solely on three expense examples provided by Aqua, it would open the door for other large utilities to propose unjustified blanket inflation expense adjustments in future rate cases. ALJ Long correctly disallowed Aqua's proposed inflation adjustment, reducing FPFTY expenses by \$1.07 million. R.D. at 70-71; OCA M.B. at 28-30; OCA R.B. at 15; OCA Table II (Water, Wastewater Base, Limerick, East Bradford, Cheltenham, East Norriton, New Garden).

## Rate of Return - Cost of Equity and Management Adder

Reply to Aqua Exc. 1: ALJ Long Correctly Rejected Aqua's Overstated Return on Equity and the Flawed Underlying Analyses and Additions to the Return on Equity. R.D. at 77-81; OCA M.B. at 52-76, 110-12; OCA R.B. at 25-35.

ALJ Long adopted the Company's proposed capital structure and recommended a return on equity of 8.9%. R.D. at 77-81. Aqua argues that ALJ Long erred in recommending the Bureau of Investigation & Enforcement's (I&E) return on common equity (ROE) of 8.9% and that its 10.75% ROE should be adopted. Aqua Exc. at 2. Aqua's arguments are without merit.<sup>1</sup>

Despite significant histrionics contained in their exceptions asserting that an ROE of 8.9% would be the end of the Company as we know it, Aqua provides no legal justification for its excessively inflated ROE. Aqua Exc. at 2-4. The facts and law do not support Aqua's position, as it ignores the Commission's statutory duty to ensure that ratepayers' interests, along with investors and shareholders' interests are balanced in setting rates that are just and reasonable. *See* OCA St. 3 at 8; OCA M.B. at 56; OCA R.B. at 26-28. ALJ Long correctly rejected Aqua's ROE of 10.75% as an unreliable recommendation. RD at 78-79. Aqua's proposed 10.75% relies on flawed empirical analyses and unsupported add-ons to reach a return on equity that is unsupported and was appropriately rejected by ALJ Long.

1. I&E's DCF Growth Rate Calculation Adopted by the Recommended Decision Is Not Understated.

ALJ Long adopted I&E's growth rate for calculating the DCF.<sup>2</sup> Aqua argues that I&E's Growth Rate "is unreasonable because it improperly includes an extremely low 3.6% growth rate for Middlesex Water." Aqua Exc. at 6; Aqua M.B. at 124. Aqua relies on the Recommended

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<sup>1</sup> The OCA filed Exceptions indicating that Aqua's proposed capital structure is well above the average of the proxy group and should not be used for ratemaking and that while the 8.9% return on equity is certainly more reasonable than Aqua's overstated, flawed return on equity, the OCA retains its position that return on equity chosen by the Commission should be 8.0% for the reasons set forth in OCA Statements 3 and 3SR. *See* OCA Exceptions at 12-14.

<sup>2</sup> While I&E's growth rate is more reasonable than the deeply flawed growth rate the Company proposed, it is still unreasonably inflated compared to the proper growth rate, as demonstrated in OCA's Exceptions.

Decision dated December 4, 2020, in *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-2020-3018835, et al. (*Columbia 2020 R.D.*), for support in excluding the Middlesex Water IBES/First Call growth rate. Aqua Exc. at 6. The *Columbia 2020 R.D.* excluded a growth rate for being too high (26.5% was 3.5 times greater than the average). *Columbia 2020* at 133. Here, the Middlesex Water growth rate that Aqua wants excluded is clearly not the extreme outlier Aqua is claiming. See I&E St. 2-SR at 7-8. Aqua’s argument for increasing the Growth Rate to 7.5% based on excluding the Middlesex Water IBES/First Call growth rate should be denied.

ALJ Long was correct that she “cannot rely upon the Company’ ROE recommendation.” RD at 79. The ALJ relied on I&E’s growth rate of 7.15%.<sup>3</sup> I&E Exh. 2, Sch. 5. Aqua’s testimony demonstrates that its growth rate recommendation of 7.5% is not based on sound analysis. Aqua Witness Mr. Moul relied on growth rates projected for the Water Group by IBES/First Call (6.31%), Zacks (7.15%) and Value Line (7.93%). Aqua St. 7, Sch. 9. The average of Mr. Moul’s sources for the growth rate is 7.13% - a number that is consistent with the growth rate relied on by the ALJ - yet Mr. Moul arbitrarily chose to use a 7.5% growth rate based merely on his preferences. OCA St. 7 at 30. A growth rate of 7.13%, already overstated for numerous reasons<sup>4</sup>, should not be further increased to 7.5%. Aqua’s arbitrary increase of an additional .37% to the average growth rate of the Water Group based on Aqua’s chosen sources is an unsupported and should be denied.

2. The Recommended Decision Properly Rejects Any Leverage Adjustment to the DCF Result.

ALJ Long correctly rejected Aqua’s claim for a leverage adjustment to the ROE. Aqua included a 234 basis point leverage adjustment adder to its cost of equity. The adder is unsupported and not reasonable. Using Aqua’s proposed equity percentage of capital structure and

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<sup>3</sup> OCA Exception 9 addresses the credible evidence that the growth rate should be lower than 7.15%.

<sup>4</sup> Aqua, as a purely domestic company, will grow at a rate that is less than the U.S. domestic economic growth rate. The long-term forecast for U.S. GDP, one of the most widely used measures of aggregate economic growth is about 4%. OCA St. 3 at 32.

recommended rate base, a 234 basis point leverage adjustment to the Company's ROE will force ratepayers to fund an additional \$68,578,855 annually to cover the increase from this leverage adjustment and the associated impact resulting from other areas of the base rate case. I&E St. 2 at 43. Aqua claims that the adder is needed because the DCF results do not accurately capture the cost of equity for the Company. The unadjusted DCF results of I&E, OCA, and Aqua all fall between 8% and 9.07%, indicating a relatively small range resulting from three experts' application of DCF models. Company witness Moul's only explanation for how he calculated this 234 adder is that he subtracted return generated from the DCF model from the return computed using the "Modigliani & Miller" formulas. Aqua St. 7 at 34. This end-result based approach is unreasonable and creates substantial burdens for consumer ratepayers as subsidizers of investors.

Aqua also claims the empirically calculated, non-adjusted DCF results indicate a discrepancy between the risks of book values and market values and that its adder will align those risks. Aqua Exc. at 7-8. This argument is designed to get to Aqua's desired end of an inflated ROE; it is without merit or support. Mr. Moul incorrectly theorizes that the market-derived cost of equity needs to be adjusted to compensate for the difference in financial risk. However, Mr. Moul's analysis ignores the fact that Aqua does not have greater financial risk. OCA Witness David Garrett testified that "the most egregious problem is his input for beta. Mr. Moul calculates a relevered beta of 1.07, which implies that Aqua is *riskier* than the average company in the competitive marketplace (which would have a beta of 1.0). OCA St. 3 at 38. Regulated utilities are generally considered as being some of the *least* risky companies in the marketplace. OCA St. 3 at 23-25. Aqua has not met its burden of proof for the leverage adjustment and ALJ Long's rejection of that adjustment should be upheld as it is consistent with past Commission precedent.

The Commission has routinely denied such leverage adders. *See, e.g., Pa. P.U.C. v. Aqua Pa., Inc.*, 2008 Pa. P.U.C. LEXIS 50, 47 (declining Aqua's request for a leverage adjustment); *Pa.*

*P.U.C. v. City of Lancaster – Bureau of Water*, 2011 Pa. P.U.C. LEXIS 1685 (*Lancaster 2011*) (declining a leverage adjustment); *Pa. P.U.C. v. PPL Elec. Util. Corp.*, 2012 P.U.C. LEXIS 1757, R.D. (declining a proposed leverage adjustment).

The cases Aqua relies on are distinguishable and ill-suited as precedent here. Aqua Exc. at 7-8. Aqua argues that in *Lancaster 2011* the Commission simply exercised its discretion in not adopting a leverage adjustment. Of course, this ignores the fact that the Commission bases its decisions – including its exercise of discretion, based on the record evidence in a proceeding. OCA R.B. at 31; Aqua M.B. at 115. In this proceeding, the evidence does not support Aqua’s contentions. OCA witness Garrett testified that Mr. Moul either erroneously miscalculated or intentionally crafted an upwardly biased decision when attempting to calculate the adjustment. OCA St. 3 at 38. In either case, the adjustment should be disallowed as it amounts to a transfer of \$48 million of ratepayer funds to enrich investors with inadequate basis in the record to do so.

3. The Recommended Decision Properly Regarded the Requirements of Section 523 of the Public Utility Code in Denying Additional Basis Points for Effective Management.

ALJ Long correctly rejected Aqua’s request to include additional basis points for a management performance to the ROE. Aqua claimed that their effective management performance deserved additional basis points, although Aqua declined to quantify the points they purportedly deserve. Aqua’s claim for effective performance is based on the Company’s assertion that it has provide customers with reliable water and wastewater at reasonable rates. Aqua St. 1 at 30-31. Aqua also asserts that its acquisition of troubled or non-viable wastewater systems is an indicator of the Company’s effective management. Aqua St. 1 at 30-31.

Aqua’s provision of safe, adequate, and reliable water and wastewater service is required under 66 Pa. C.S. § 1501. Meeting the required Public Utility Code standards is not the same as exemplary performance. OCA R.B. at 34. If every utility that provided reliable water and

wastewater service was deserving of additional basis points for effective management performance, the Commission would be giving virtually every utility in the Commonwealth unwarranted increases in their ROEs.

Aqua tries to deflect attention from the large number of management performance issues by asserting that “the Commission has never employed a standard that limits recognition to only companies with leading performance in every possible measure.” Aqua Exc. 13-14; Aqua M.B. at 139. The OCA demonstrated that Aqua was deficient in many areas of management performance, including but not limited to water quality, wastewater treatment compliance, system reliability, cost containment, rates, COVID-19 response, customer service, low-income customer assistance programs, infrastructure rehabilitation, tax programs, and environmental initiatives. OCA St. 3 at 53-54; OCA M.B. at 75-76, 178-87, 190-204; OCA R.B. at 33-35. The Recommended Decision properly rejects the addition of 234 basis points to the ROE calculation.

Aqua also claims that its acquisition of small, troubled or non-viable wastewater systems through the acquisition of Phoenixville Water<sup>5</sup> and receivership of three other systems is deserving of the addition of basis points to the ROE calculation for strong management performance. Acting as a receiver is appreciated, but the costs of rehabilitating these systems are passed along to other ratepayers across the state. *See* R.D. at 79-80. Aqua asserts that cost savings for consumer ratepayers that have been realized through the economy of scale associated with its acquisitions, but this assertion, even if true, is not an indicator of effective management performance it is an indicator of the size of the Aqua system. *See* Aqua Exc. At 14. To require ratepayers who subsidize acquired systems, whether failing or not, to now pay even higher rates for Aqua’s

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<sup>5</sup> As set forth in OCA’s testimony, the acquisition of Phoenixville Water’s PUC-regulated service area did not involve a troubled system as defined in Section 1327. *See* OCA St. 2 at 11-14; OCA M.B. at 17-21; R.D. at 39-44.

acquisition of those systems in the name of effective management performance is unreasonable and should be rejected, as ALJ Long recommended.

## **Revenues**

Reply to Aqua Exc. 4: ALJ Long Correctly Increased Aqua’s Special Contract Revenue for the FPFTY to Reflect the Measure of Inflation Specified in the Contracts. R.D. at 52-53; OCA M.B. at 26, 110-12; OCA R.B. at 12, 66-68.

In its filing, Aqua reflected revenues for negotiated rate contracts at the end of March 2021; however, several of the contracts contain annual rate escalation provisions. OCA St. 4 at 23. The Company recognized that this was in error and that revenues should be increased to reflect the contractual escalation rates through the end of March 2023 (end of the FPFTY). Aqua St. 2R at 27-28. Aqua and the OCA recommended different revenue adjustments because they used different measures of inflation to calculate the escalation rates. Aqua adjusted revenues by \$116,036 and the OCA recommended they be adjusted by \$236,777.

ALJ Long agreed with the OCA’s adjustments. R.D. at 52-53. She rejected Aqua’s calculation of the escalation factor, finding that it was not reasonably representative of projected revenue resulting from the negotiated contracts. She found that the OCA supported a higher level of inflation, based on forecasts of the Consumer Price Index (CPI) that were reliable and had a degree of impartiality. *Id.* at 53.

In its Exception, Aqua argues that the ALJ erred because the contract provisions “specify how the rate of inflation is to be calculated for determining the annual escalation of each contract.” Aqua Exc. at 23. To be clear, the contracts specify that escalation is tied to changes in the Consumer Price Index (CPI). OCA St. 4SR at 10. Accordingly, the OCA used forecasted inflation rates for the CPI to calculate the contract rate increases. Aqua did not use the CPI; it used the GDP Chained Price Index. As such, the ALJ correctly adopted the OCA’s calculation as providing the most accurate depiction of inflation levels in the FPFTY.

Notwithstanding this, Aqua argues that the inflation rates calculated by the OCA were overstated because the OCA includes inflation rates for 2023, which disregards that “this rate case is based upon a FPFTY ending March 31, 2023, and 2023 inflation rates will not affect most of the contract rates.” Aqua Exc. at 23. Aqua claims that the ALJ erred by simply repeating this mistake. *Id.* In making this claim, Aqua ignores the evidence. As explained in the OCA’s testimony and Reply Brief, the OCA’s witness did not apply the 2023 inflation factor for all of 2023; he applied it only to three months of 2023, *i.e.* January, February and March 2023, because those three months are within the FPFTY ending March 31, 2023. OCA St. 4SR at 9; OCA Highly Confidential Sch. GAW-2SR. Thus, the OCA reflected the contract rates at the end of the FPFTY just as Aqua has calculated its estimated revenues, customers served, operating expenses and rate base as of March 31, 2023. OCA R.B. at 67.

Recognizing that the OCA’s inflation rates are more current (and higher) than those used by Aqua, Aqua argues that it would be inconsistent for the Commission to use higher inflation rates to calculate higher revenues if it does not recognize the impact of higher inflation rates on the Company’s expenses (referring to its proposed General Price Level Adjustment). Aqua Exc. at 23. Aqua is incorrect. The ALJ properly rejected Aqua’s general inflation adjustment because it was speculative and Aqua did not provide specific evidence showing that it would actually experience cost increases in those areas, but accepted the OCA’s special contract revenue adjustment because the terms of the contract were specific about the adjustments that would occur in the FPFTY. R.D. at 52, n. 53, 70-71.

Finally, the OCA notes that, in increasing special contract revenue to reflect the escalation rate calculated by the OCA, the ALJ did not include adjustments for the Rider DRS contracts that she recommended should be charged full tariff rates. R.D. at 53. Thus, to the extent the Commission does not adopt the ALJ’s recommendation to move Chemung, Horsham, New

Wilmington and Sharpsville from discounted contract rates to full tariff rates, special contract revenues should be adjusted upward to reflect the escalation provisions for those contracts, *i.e.* ALJ Long's recommended adjustment of \$181,350 should be increased accordingly.

### **Cost of Service and Rate Design**

Reply to Aqua Exc. 8: The ALJ's Recommendation That Aqua Prepare Separate Cost of Service Studies and Revenue Requirements in Its Next Base Rate Case Is Reasonable Given the Significant Impact That Acquisitions Had on Rates for Wastewater and Water Customers in the Current Case. R.D. at 82-83; OCA M.B. at 84-86; OCA R.B. at 43-44.

This is the first Aqua base rate case to include separate cost of service studies (COSS) for systems acquired under Section 1329. The ALJ recommended that, in its next base rate case, Aqua should be required to prepare separate COSS for its legacy wastewater systems and systems acquired under Section 1329, and provide separate COSSs for each system included in Aqua's next base rate proceeding following those acquisitions. R.D. at 82-83.

Aqua objects on the basis that it would place an extra burden on Aqua relative to other water and wastewater utilities. Aqua Exc. at 30. Aqua's concern is misplaced. If other utilities are acquiring systems under Section 1329, then they will be in the same situation that Aqua was in the current base rate case where it provided one COSS for legacy systems and individual COSSs for the systems acquired prior to the base rate case. An individual COSSs has been adopted by the Commission for every Section 1329 acquisition approved to date, so it is reasonable to assume the Commission will continue to apply it uniformly to Aqua's competitors. Aqua St. 1 at 11-12.

The main distinction is that Aqua would be preparing one additional COSS for the combined Section 1329 systems that were in this case. Aqua claims that "increased costs and complications" of preparing one additional COSS for those systems would place the Company at a competitive disadvantage from other bidders in future acquisition opportunities. Aqua does not quantify the costs. Review of the rate case expense claim in the current filing indicates that Aqua

spent \$400,000 on “Engineering, Cost Allocation and Depreciation.” Aqua Exh. 1-C, Sch. C-4.4. The purchase price of the five 1329-acquired systems in this case ranged from roughly \$5 million to \$75 million, or an average of \$34.4 million.<sup>6</sup> Even if COSSs and cost allocation represented the entire \$400,000 in this case, ignoring that 91.51% of rate case expense is allocated to water operations that represents only 1% of the average purchase price of the Section 1329 systems in this case.<sup>7</sup> This cannot reasonably be considered a meaningful competitive disadvantage.

Aqua argues that the requirement for new acquisitions should be analyzed in the context of future Section 1329 acquisition proceedings and not imposed indefinitely in this base rate case because it is not known whether and when further systems will be acquired. Aqua Exc. at 31. While this rate case is pending, Aqua has three Section 1329 acquisitions also pending.<sup>8</sup> Establishing a requirement for a separate COSS for 1329 acquisitions in this case would avoid the need for the parties and the Commission to address it in every Section 1329 proceeding. The continuing need for this requirement could be evaluated in the next base rate proceeding.

Aqua also argued that preparing a separate COSS would frustrate the policy of single tariff pricing. Aqua Exc. at 30. The Company cites to a Pittsburgh case where the Commission did not require a water utility to maintain separate records for rate districts after they were consolidated. *Pittsburgh v. Pa. PUC*, 526 A.2d 1243 (Pa. Cmwlth. 1987), *pet. for allowance of appeal denied*, 538 A.2d 880 (Pa. 1988). Aqua ignores that it has not reached the point of consolidating Section 1329 systems with its legacy systems. In this proceeding, Aqua proposed to reduce its legacy rate zones from six to five and for each Section 1329 system to stay in its own, separate rate zone.

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<sup>6</sup> (\$74,836,000, \$5,000,000, \$50,104,000, \$21,000,000, \$21,000,000 / 5 = \$34,388,000) Aqua Exh. Vol. 18, Notes to Consol. Financial Statements Dec. 31, 2019 and 2018 at 22, Dec. 31, 2020 and 2019 at 21-22; OCA St. 4 at 6.

<sup>7</sup> Total rate case expense claimed in the filing was \$2.2 million and includes costs that are not related to cost allocation, such as “rate of return.” The 8.49% allocation of that expense to wastewater is \$186,780. Aqua Exh. 1C, Sch. C-4.4.

<sup>8</sup> DELCORA at A-2019-3015173, East Whiteland at A-2021-3026132 and Willistown at A-2021-3026132 and a fourth acquisition approved by the Commission (Lower Makefield). Application of Aqua Pa. Wastewater, Inc., A-2021-3024267, Order (Jan. 13, 2022).

Aqua St. 5R at 21; Aqua Tariff Sewer-Pa. P.U.C. No. 3. Moreover, in this case, Aqua proposed that one-third of its wastewater revenue requirement should be recovered from water customers, which moves all customers *further* from paying rates that reflect their indicated cost of service. OCA St. 4 at 4 (Table I); Aqua Exhs. 5-A, Part I, 5-B, Part I. ALJ Long addressed the subsidies between water and wastewater and between the legacy and acquired wastewater systems, stating:

This base rate filing emphasizes the importance of tracking the implications of the acquisition of water and wastewater systems and the effect of those acquisitions on rates and cost of service. While consolidating rate zones is important, it is also important to appropriately track the cost to serve the acquired systems and the steps taken to move rates in these systems closer to the cost of service while ensuring that other ratepayers are not subsidizing service to these customers indefinitely. I&E's proposals are reasonable and sensible and well within the Commission's mandate to assure that a utility's rates are just and reasonable and meet the public interest and should be adopted.

For the above reasons and as discussed in the OCA's briefs and I&E's testimony (I&E St. 5 at 66), the ALJ's recommendation for separate COSS for Section 1329 acquisitions should be adopted.

Reply to Aqua Exc. 10: The ALJ Appropriately Recommended That Aqua Study the Reasonableness of Using System-Wide Averages to Calculate Flat Rates for All Systems. R.D. at 98; OCA M.B. at 107-08; OCA R.B. at 64-65.

Nine wastewater rate zones have both metered and unmetered residential rates. For some zones, the metered and unmetered rates are relatively close but in others, there is a significant difference between rates for an average metered rate customer and flat rate customer. OCA St. 4 at 20; OCA Sch. GAW-8. For example, compared to metered rates, flat rates are 57% higher in Zone 5 and 30% lower in the Limerick Zone.<sup>9</sup> *Id.* The ALJ recommended that Aqua study whether a different method of calculating a flat rate would be more reasonable for some systems than applying a system-wide average and report the results in its next base rate case. R.D. at 98.

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<sup>9</sup> Current average monthly metered rate for Avon Grove (rate zone 5) is \$113 compared to \$177 for flat rate customers. Current average monthly metered rate for Limerick is \$40 compared to \$28 for flat rate. OCA St. 4 at 20 (Table 8).

Aqua objects to providing a study, repeating the argument from its briefs about why using 4,000 gallons per month is a reasonable number. Aqua Exc. at 35. Aqua's argument misses the point. The concern expressed by the ALJ is that a system-wide average may not be representative of usage in a particular area of Aqua's service territory where there is a significant mix of types of housing or other unique circumstances. R.D. at 98; Day Exh. 1 at 3; OCA M.B. at 108; OCA R.B. at 64-65. Where that is causing an unreasonable disparity in the rates charged to metered and unmetered customers, it is reasonable for Aqua to study and propose adjustments to its unmetered rates, which may include an adjustment to the usage assumption applied in a particular territory.

Aqua suggests that no study is needed because it is reasonable not to recognize differences in average usage; customers pay to have the system available, whether or not they are present at the service address to use it. Aqua Exc. at 35. As the ALJ correctly noted, Aqua's availability of service argument may provide support for having a fixed customer charge component for metered rates but it does not mean that the usage amount assumption for flat rates is reasonable for all areas of Aqua's service territory. R.D. at 98.

Finally, Aqua argues that in some areas of its service territory, customers are served by individual wells (not metered) so that actual usage cannot be determined. Aqua ignores the nine individual territories where it charges some customers metered rates. OCA St. 4 at 20; OCA Sch. GAW-8. Moreover, Aqua has usage data at the individual system level, which informs its operations and compliance with regulatory requirements for wastewater collection, conveyance, treatment and discharge.<sup>10</sup> Other information regarding housing size, occupancy and seasonal usage may be available from property owners associations, local municipalities and observation. For all these reasons, ALJ Long's recommendation should be adopted.

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<sup>10</sup> See, e.g., 25 Pa. Code Chs. 91, 92a.

Reply to Aqua Exc. 9 and Masthope Exc. 2: The ALJ Properly Rejected Aqua’s Unreasonably Large Act 11 Subsidy and Its Rate Design with Regard to Wastewater Customer Charges. R.D. at 84-91, 96; OCA M.B. at 86-96, 98-102; OCA R.B. at 46-49, 58-61.

Aqua proposes that its water customers should pay roughly *one-third* of its wastewater customers’ revenue requirement.<sup>11</sup> ALJ Long rejected that proposal and adopted the substantially lesser subsidy of approximately \$10 million recommended by I&E. R.D. at 88-91. The ALJ also recommended that the Commission adopt I&E’s wastewater rate design. R.D. at 87-89, 96.

With regard to the amount of the Act 11 subsidy, the I&E and OCA’s recommendations differ slightly (\$10.126 million and \$11.744, respectively), but are based on the same reasoning accepted by ALJ Long – that it is not reasonable or in the public interest for water customers, who receive no direct or indirect benefit from wastewater operations or Section 1329 acquisitions, to bear such a disproportionate share of the revenue requirement driven by those acquisitions. R.D. at 89-91; OCA St. 4 at 4-5, 7; I&E St. 5 at 66. Also, establishing a subsidy close to one-third of the wastewater revenue requirement would mean that wastewater rates do not bear a reasonable relationship to the utility’s cost of serving the customer. *See* OCA M.B. at 89-91. As such, the Commission should reject the Aqua subsidy as being unreasonable and inconsistent with generally accepted ratemaking principles.

Aqua argues that a \$21 million subsidy is necessary to mitigate significant rate impacts for wastewater customers, particularly in the acquired systems. Aqua Exc. at 31-33. The Company claims that the more moderate subsidy recommended by I&E produces wastewater rate increases that are not sufficiently gradual. *Id.* In so doing, Aqua neglects the role that FMV ratemaking rate base and the Company’s unreasonably high proposed ROE play in exacerbating the impact to the

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<sup>11</sup> This subsidy is roughly 25% of the total increase proposed by Aqua in this case for water customers. Subsidy of \$20.839 million ÷ Aqua proposed increase \$86.184 million ((2)-(1)) = 24.1%.

customers of the acquired systems. OCA St. 4SR at 2. OCA witness Watkins provided the following analogy to show why it is reasonable to assign more of the revenue requirement generated by the Section 1329 systems. He stated:

As an analogy, suppose I purchased my home many years ago for \$100,000 and still had a small mortgage on the home. I decided to sell my home at fair market value for \$200,000 and rent it back from the investor. In the concept of gradualism, it would not be reasonable for me to propose that my new rental payment be based only slightly higher than my original mortgage, and at the same time, also ask all of the other investor's renters to subsidize my monthly rental payment. Clearly, as a result of my decision to sell my house at fair market value, I would be expected to rent it back at a rent that reflected the fair market value that is much higher than my original mortgage.

OCA St. 4SR at 3. Moreover, even with ALJ's recommended reduction to the Act 11 subsidy, the acquired wastewater customers (and the legacy wastewater customers) will not pay the full cost of service, and there would still be a \$10 million subsidy by water customers. Aqua's Exception regarding the Act 11 subsidy should be rejected. For the same reasons, Masthope's objection to decreasing the subsidy for Masthope, one of the legacy systems, should be rejected. Masthope Exc. at 10-12. Even with a reduced subsidy of \$10 million, the legacy systems will still pay less than half of their full cost of service required increase. OCA R.B. at 51-53; *see* R.D. at 88.

Regarding wastewater rate design, the OCA addressed in its Exceptions its concerns with the ALJ's adoption of I&E's proposed rate design. OCA Exc. at 18-23. Those concerns relate to the OCA's recommended customer charges for Zone 1 and moving other divisions toward consolidation with those charges and the OCA's position that rates for Cheltenham should not recover more than its cost of service. *Id.*; *see also* OCA M.B. at 99-100; OCA R.B. at 58-61. In its Exceptions, Aqua also opposes I&E's wastewater rate design and asks the Commission to adopt Aqua's rate design proposals. Aqua Exc. at 34. The OCA's principal objection to Aqua's rate design proposals is that Aqua's cost analysis does not support higher customer charges than current Zone 1 customer charges. OCA M.B. at 99-103; OCA R.B. at 58-61. The OCA's other specific

recommendations regarding Aqua's proposed wastewater rate design for the acquired systems are addressed in the OCA's briefs. OCA M.B. at 102-03; OCA R.B. at 60-61.

Reply to Masthope Exc. 1: If the Commission Denies All or Part of the Increase to Masthope Wastewater Customers, It Should Not Increase Rates for Other Aqua Customers. R.D. at 131-33; OCA R.B. at 50.

If the Commission denies all or part of the proposed rate increase for Masthope customers, this remedy should not impose costs on other Aqua wastewater or water customers. OCA R.B. at 50; Masthope Exc. at 4-10. Those costs must effectively be borne by Aqua. If it is not reasonable for Masthope customers to pay higher rates because service is inadequate, it would be equally unreasonable for other customers to pay higher rates for Masthope service. As such, the revenue requirement associated with the rates set for Masthope should not be reallocated. Rather, if inadequate service is found, then there would be an implied reduction in the return on equity because the revenue requirement for Masthope would not be fully reflected in rates.

Reply to OSBA Exc. 1-3 and Aqua LUG Exc. 1: The ALJ Correctly Rejected the OSBA and LUG Recommendations Regarding Water Allocation. R.D. at 91-93; OCA R.B. at 55-58.

But for the difference between the Aqua and OCA recommended Act 11 subsidy, the OCA accepted Aqua's revenue allocation approach for the metered water classes. OCA St. 4R at 3. The ALJ reviewed OSBA and LUG arguments for modifications to the Aqua approach and concluded that Aqua and OCA's approach to revenue increases for water is more reasonable than the modifications proposed by OSBA and Aqua LUG. R.D. at 91-93.

In its Exceptions, OSBA argues that it was appropriate to isolate and remove the Act 11 allocation from its analysis. OSBA Exc. at 11-12. As the ALJ explained, however, from the perspective of customers, the effect of the increase includes both the water increase and the wastewater allocation. R.D. at 92. Moreover, the results of the OSBA's class revenue allocations with the Act 11 subsidy removed are still not reasonable. *See* OSBA Exc. at 12-17. Even though

the residential and industrial classes are currently earning close to parity, OSBA's proposal would increase their revenue responsibility by 113% and 114% of the system average percentage increase, respectively. At the same time, the commercial class is also earning close to parity but OSBA recommends this class only receive 74% of the system average percentage increase. OCA St. 4R at 7, 9-10. After the shift of revenue requirement to water operations, OSBA's results are even more skewed and unreasonably favor the Commercial class, by giving 18-19% increases to residential and industrial customers and only a 12% increase to commercial customers – again, when each of those classes is earning close to parity. OCA R.B. at 57. Such a result would clearly be inequitable. As further discussed in the OCA and Aqua briefs, the ALJ properly found that OSBA's recommended total class water increases are unreasonable. *Id.* at 55-58; Aqua M.B. at 228-29. She stated:

As can be seen in the chart, it appears that OSBA's recommendation to isolate and remove the Act 11 allocation from its analysis is motivated by a desire to decrease the revenue allocated to non-residential customer classifications, while increasing the revenue allocated to residential customer classes.

R.D. at 92. Aqua LUG argues that the Aqua (and OCA) approach does not sufficiently move relative (indexed) RORs toward cost of service. Aqua LUG Exc. at 2-6. Mr. Baudino proposals would move classes by very small percentage increments and do not consider the imprecisions of the underlying cost allocations or the many other complexities of this case. R.D. at 93; OCA St. 4R at 12. As a result, the ALJ properly concluded that Aqua's methodology to allocate class revenues is more appropriate. Consistent with the ALJ's recommendation, the Commission should reject OSBA's and Aqua LUG's adjustments.

OSBA filed a final Exception relating to ALJ Long's failure to adopt its proposal to allocate the Act 11 subsidy between residential and non-residential classes. OSBA Exc. at 17-20. Given that Aqua has 415,059 non-fire water customers and only 63,869 wastewater customers, however, most water customers do not rely upon Aqua's wastewater operations and there is no reasonable

basis for a particular class of water customers to exactly subsidize the same class of wastewater customers. OCA St. 4R at 10-11. Further, the result of OSBA's proposal is to assign the Residential class a larger relative percentage of Act 11 subsidy revenues than the system average, while the Commercial class is assigned significantly less than the system average and the Industrial class is assigned no Act 11 subsidy responsibility. *Id.* at 9-10. As the Residential, Commercial, and Industrial class indexed RORs are all reasonably close to unity, when the OSBA's initial class revenue allocations (before the Act 11 revenue shift) are combined with the Act 11 revenue increases, the OSBA's ultimate recommendation unreasonably favors the Commercial class. *Id.* at 10 (Table 10). In this regard, the OSBA's recommended total class water increases are unreasonable and should not be adopted by the Commission.

### **Riders and Surcharges**

Reply to Aqua Exc. 11: The ALJ Correctly Rejected Aqua's Proposed Reconcilable Rider Mechanisms. R.D. at 99-104; OCA M.B. at 112-15; OCA R.B. at 68-71.

ALJ Long rejected Aqua's proposed Energy Cost Adjustment Mechanism (ECAM) and its Purchased Water Adjustment Charge (PWAC). R.D. at 99-104. ALJ Long agreed with the statutory advocates that Aqua can adequately control its energy costs and that the ECAM constitutes single issue ratemaking. R.D. at 101-02. ALJ Long also recommended rejection of the PWAC for similar reasons finding that Aqua's reliance on Newtown Artesian Water was misplaced. R.D. at 103; *see Pa. P.U.C. v. Newtown Artesian Water Co.*, Docket No. R-2009-2117550, Order at 6-17 (Apr. 15, 2010) *aff'd Popowsky v. Pa. P.U.C.*, 13 A.3d 583 (Pa. Cmwlth. 2011) (*Newtown*). ALJ Long noted that Newtown purchased nearly 60% of its water and that the expense was about 25% of its annual revenues and 34% of its operation and maintenance expenses. R.D. at 104; OCA M.B. at 114. In contrast, Aqua's projected purchased water costs are about 1.4% of its total water cost of service. *Id.*

Aqua continues to argue that the energy costs and purchased water costs are outside of its control which justifies the use of Section 1307(a) surcharges. Aqua Exc. at 36; 66 Pa. C.S. § 1307(a). Aqua's argument should be rejected. First, Aqua's contention that the electric and purchased water cost are outside of its control is unsupported. ALJ Long found that as a large company with considerable buying power, there was "no reason to believe that it cannot adequately control its energy costs through normal cost control mechanisms." R.D. at 101. Aqua has voluntarily entered into contracts to purchase water with various entities so those are known costs that Aqua can exercise some control. In addition, Aqua has exercised some control through its selection of electricity suppliers. OCA R.B. at 69.

Second, the costs at issue in the ECAM and PWAC meet none of the criteria that the Commission and Courts have applied in approving a Section 1307(a) surcharge. OCA R.B. at 70-71. They are not extraordinary, substantial, unexpected or non-recurring. *Id.* Instead, they are normal, ongoing costs of providing water service that are such a small percentage of Aqua's overall cost of service that any fluctuations will have minimal impact. *Id.* The Commonwealth Court has declared that "single issue rate making is prohibited if it impacts on a matter considered in a base rate case." *Popowsky v. Pa. P.U.C.*, 869 A.2d 1144, 1151 (Pa. Cmwlth. 2005) (*CSIC*), *appeal denied*, 895 A.2d 552 (Pa. 2006) (citing *Philadelphia Elec. Co. v. Pa. P.U.C.*, 502 A.2d 722, 727-28, 93 Pa. Commw. 410, 422 (1985) (*PECO 1985*)). ALJ Long's recommendation to reject the ECAM and the PWAC should be adopted for the reasons discussed by ALJ Long and as discussed in the OCA's testimony and briefs. OCA St. at 24-25; OCA M.B. at 112-15; OCA R.B. at 68-71.

Reply to Aqua Exc. 12: The ALJ Correctly Rejected Aqua's Proposed Federal Tax Adjustment Surcharge. R.D. at 104-06; OCA M.B. at 82-83; OCA R.B. at 40-42.

ALJ Long rejected Aqua's unsupported Federal Tax Adjustment Surcharge (FTAS). R.D. at 106. ALJ Long agreed with the arguments of OCA and I&E that the FTAS is not necessary

because it is uncertain when the next change in the federal corporate income tax will occur and what any future legislation would do regarding tax liabilities. R.D. at 106. ALJ Long also noted that there is no pending legislation to consider and that the FTAS is premature. *Id.*

In its Exception, Aqua argues first that the lack of evidence of any change in the federal tax liabilities is irrelevant and second that there would be a large impact on Aqua if there is a change in the federal income tax rate. Aqua Exc. at 36-38. Aqua's arguments are without merit. If the issue of tax liabilities is "irrelevant" then there is no reason to implement Aqua's proposed FTAS. Essentially, Aqua's position is consistent with the evidence establishes that the FTAS is not necessary. Aqua has not presented any evidence that a tax change is imminent. In fact, its witness admitted that "no one can say with any certainty if/when an increase to the federal corporate income tax will take effect." R.D. at 106 *citing* Aqua St. 8R at 10. If there is no necessity for the FTAS, then Aqua's proposal must be rejected.

Aqua next argues that the impact of any tax changes would be large, but that is pure speculation because it has no knowledge or certainty of any upcoming tax changes. Aqua's arguments ignore the likely process if there is any change and has presented its FTAS as the only way to address a hypothetical tax changes. Future, unknown changes to the federal corporate income tax rate should be addressed by the Commission on a generic basis for all the public utilities under its jurisdiction. OCA M.B. at 83. As noted by OCA witness DeAngelo, in February 2018, the Commission initiated a generic proceeding to determine the effects of the Tax Cuts and Jobs Act (TCJA) on public utilities' tax liabilities and by July 2018 the Commission had set temporary rates and implemented surcredits to begin the flow through of the tax rate decrease.<sup>12</sup> OCA St. 2 at 15. Any future legislation changing the federal corporate income tax rates may impact other

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<sup>12</sup> See *Tax Cuts and Jobs Act of 2017*, Docket No. M-2018-2641242.

provisions which affect corporate federal income tax liabilities. The OCA submits that the Commission should adopt ALJ Long's recommendation and deny Aqua's FTAS.

### **Low Income**

Reply to I&E Exc. 3: The ALJ Correctly Denied I&E's Recommended Income Verification for Customer Assistance Program Eligibility. R.D. at 114-115; OCA M.B. at 143-144; OCA R.B. at 79-80.

ALJ Long correctly determined that I&E's proposal to require income verification was not needed. *R.D. at 115.* As OCA discussed in its Briefs, Aqua should be permitted to use self-attestation of income for its program. OCA M.B. at 143-144; OCA R.B. at 79-80. In its Exception, I&E argues that the ALJ erroneously accepted Aqua's "reasoning that the benefit of removing a barrier to low-income customers outweighs the risk of abuse or harm paying customers and recommended that I&E's proposed income verification be rejected." I&E Exc. at 6-7.

I&E argues that income verification is needed to prevent fraud or abuse; the program will be a full-scale program; and support for income verification can be found in Chapter 14 of the Public Utility Code. I&E Exc. at 7, citing generally to 66 Pa. C.S. §§ 1401-1419. I&E argues that Chapter 14 was intended to protect customers "from rate increases attributable to other customers' delinquencies." I&E Exc. at 7. I&E's reliance on Chapter 14 is misplaced. Chapter 14 does not specifically address income verification for any Customer Assistance Program. The evidence does not support the notion that abuse or fraud will occur without income verification but instead supports the opposite conclusion. Water companies do not typically require income documentation for participation and requiring income documentation can be a barrier to enrollment. R.D. at 115; Aqua St. 10-R at 4. The PUC has also previously supported the use of self-attestation of income. *Id.* During the pandemic, the Peoples Companies allowed customers to enroll using self-attestation of income and did not see a spike in enrollment levels. *Id.* As Aqua witness Black noted, the theoretical problems with the self-attested income, when tested in the real

world, did not occur. Aqua St. 10R at 4; OCA R.B. at 80. The PUC should deny I&E's Exception No. 3 and approve the ALJ's recommendation to deny I&E's proposal to require income verification. R.D. at 114-15; OCA M.B. at 143-144; OCA R.B. at 79-80.

### **Quality of Service**

Reply to Aqua Exc. 13: The ALJ Correctly Recommended that Aqua Develop an Isolation and Inspection Exercise Program. R.D. at 125; OCA M.B. at 211-15; OCA R.B. at 126-27.

The ALJ appropriately recommended that Aqua “develop an isolation and inspection exercise program, to be implemented no later than 180 days from the effective date of rates” in this proceeding and that the inspection and exercise program establish a defined schedule to exercise each of its non-critical valves and maintain records of attempts to inspect and exercise isolation valves.<sup>13</sup> R.D. at 125. Aqua argues in its Exception that the Company has already developed an inspection and exercise program and that the recommendation is duplicative of Aqua's existing program and commitments. Aqua Exc. at 39. Aqua is incorrect. Findings in Aqua's 2021 Management Audit state that “several aspects of a comprehensive critical valve testing program are missing or in progress, and the company should expand the program to track testing and operation of non-critical valves...” and Aqua's operating procedure “does not include information on valve inspection, scheduling, or valve criticality; all of which would be critical components of a valve inspection manual or program.” *Aqua Pennsylvania, Inc., Peoples Natural Gas Company LLC, Peoples Gas Company LLC, Management and Operations Audit*, Docket Nos. D-2020-3018771, D-2020-3018773, D-2020-3018774 (April 2021) (Management Audit). As noted in the OCA's testimony, based on Aqua's testimony and the implementation plan for the management audit, a specific replacement time for non-critical valves has not been approved by

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<sup>13</sup> The OCA submits that the ALJ erred in not adopting the OCA's recommended 5-year non-critical valve inspection program, which is reasonable and consistent with industry standard, as opposed to the 12-year program advanced by Aqua. OCA Exc. at 37-38.

the Commission and Aqua has not provided support for the longer 12-year exercising schedule. OCA St. 7SR at 7. For these reasons, the Commission should deny Aqua's Exception, adopt the ALJ's recommendation to direct Aqua to file a develop an isolation and inspection exercise program, to be implemented no later than 180 days from the effective date of rates program.

### III. CONCLUSION

For the reasons herein and articulated in the OCA's Briefs, the OCA respectfully requests that the Commission grant the OCA's Exceptions and Reply Exceptions and adopt the OCA's positions as discussed above.

Respectfully Submitted

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