



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

April 20, 2022

Via Electronic Mail

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

Re: Application of Aqua Pennsylvania Wastewater, Inc. pursuant to Sections 1102, 1329, 507 and 2102 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of East Whiteland Township
Docket No. A-2021-3026132
I&E Pre-Served Testimony and Exhibits - Resubmission

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the following prepared **Pre-Served Testimony, Exhibits & Verifications Statements** of the Bureau of Investigation and Enforcement's (I&E) witnesses in the above-captioned proceeding, per ALJ Guhl's Briefing Order dated April 4, 2022:

I&E Statement No. 1 – Keller
I&E Statement No. 2 – Cline
I&E Statement No. 1-SR - Keller
I&E Statement No. 2-SR – Cline
Verification Statements – Keller & Cline

I&E Exhibit No. 1 – Keller
I&E Exhibit No. 2 – Cline

This is a resubmission of the filing from April 18, 2022 to comply with the Secretary Bureau's request to submit the above documents as one pdf.

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

Sincerely,

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

CBW/jfm
Enclosures

cc: Hon. Marta Guhl, Administrative Law Judge, OALJ-Philadelphia (*via email only*)
Athena DelVillar, Legal Assistant, OALJ-Philadelphia (*via email only*)
Per Certificate of Service (*Cover Letter & Certificate of Service only, via email only*)

**I&E Statement No. 1
Witness: Christopher Keller**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

**Application of Aqua Pennsylvania Wastewater, Inc. for Acquisition of the
Wastewater Collection and Conveyance System Assets of East Whiteland
Township**

Docket No. A-2021-3026132

Direct Testimony

of

Christopher Keller

Bureau of Investigation & Enforcement

Concerning:

**Summary of 66 Pa. C.S. § 1102 and 66 Pa. C.S. § 1329
Easements and Other Property Rights
Potential Future Rate Impact Implications**

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1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Christopher Keller. My business address is Pennsylvania Public
4 Utility Commission, Commonwealth Keystone Building, 400 North Street,
5 Harrisburg, PA 17120.

6
7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 A. I am employed by the Pennsylvania Public Utility Commission (Commission) in
9 the Bureau of Investigation & Enforcement (I&E) as a Fixed Utility Financial
10 Analyst.

11

12 **Q. WHAT IS YOUR EDUCATION AND EMPLOYMENT BACKGROUND?**

13 A. An outline of my education and employment history is attached as Appendix A.

14

15 **Q. PLEASE DESCRIBE THE ROLE OF I&E IN RATE PROCEEDINGS.**

16 A. I&E is responsible for protecting the public interest in proceedings before the
17 Commission. I&E's analysis in the proceedings is based on its responsibility to
18 represent the public interest. This responsibility requires the balancing of the
19 interests of ratepayers, the regulated utility, and the regulated community as a
20 whole.

1 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

2 A. The purpose of my direct testimony is to address issues related to the application
3 of Aqua Pennsylvania Wastewater, Inc. (Aqua) for approval of the acquisition of
4 the wastewater collection and conveyance system (wastewater system) assets of
5 East Whiteland Township (EWT) in Chester County, Pennsylvania. Specifically, I
6 am addressing the easements and other property rights and the potential future rate
7 implications.

8
9 **Q. DOES YOUR TESTIMONY INCLUDE AN EXHIBIT?**

10 A. Yes. I&E Exhibit No. 1 contains schedules that support my direct testimony.
11

12 **Q. WHAT IS AQUA REQUESTING IN THIS APPLICATION?**

13 A. First, under 66 Pa. C.S. §§ 1102 and 1329, Aqua is requesting approval to acquire
14 EWT's wastewater system assets and the right to begin furnishing wastewater
15 service in the areas currently served by EWT (Aqua Application, p. 2). Second,
16 under 66 Pa. C.S. § 1329 (Section 1329), Aqua is seeking to utilize the fair market
17 value to establish the ratemaking rate base of \$54,930,000 for EWT's wastewater
18 system assets based on the negotiated purchase price (Aqua Application, p. 6).
19 Finally, under 66 Pa. C.S. § 507, Aqua is seeking approval for (a) the Asset
20 Purchase Agreement dated January 8, 2021 entered between Aqua and EWT, and
21 (b) the assignment of 22 sewage conveyance and/or treatment agreements
22 (including addendums to the agreements) entered among EWT and other

1 Township, Borough, and County municipal authorities (Aqua Application, p. 2
2 and pp. 20-22).

3
4 **SUMMARY OF 66 PA. C.S. § 1329 AND 66 PA. C.S. § 1102**

5 **Q. WHAT TYPE OF FAIR MARKET VALUATION DOES SECTION 1329**
6 **ALLOW?**

7 A. Section 1329 allows consideration of the fair market valuation of two independent
8 utility valuation experts (UVEs) in the acquisition of water and wastewater
9 systems owned by a municipal corporation or authority. One UVE is selected by
10 the buyer and the other is selected by the seller. Each valuation must be made in
11 compliance with the Uniform Standards of Professional Appraisal Practice
12 (USPAP), employing the cost, market, and income approaches. Further, Section
13 1329 states that the ratemaking rate base of the selling utility shall be the lesser of
14 the negotiated purchase price or the fair market value of the selling utility.

15
16 **Q. HOW ARE FAIR MARKET VALUATIONS INCORPORATED INTO A**
17 **SECTION 1102 APPLICATION?**

18 A. The results of the UVEs' analyses are incorporated into the Section 1102
19 application for a certificate of public convenience to be submitted to the
20 Commission for approval.¹

¹ http://www.puc.pa.gov/filing_resources/issues_laws_regulations/section1329_applications.aspx, (accessed on February 25, 2022).

1 **EASEMENTS AND OTHER PROPERTY RIGHTS**

2 **Q. DID AQUA INDICATE THAT IT IDENTIFIED ALL REAL ESTATE,**
3 **INCLUDING LEASES, EASEMENT RIGHTS, AND ACCESS TO PUBLIC**
4 **RIGHTS-OF-WAY THAT MUST BE TRANSFERRED TO AQUA TO**
5 **FACILITATE AQUA’S OPERATION OF EWT’S WASTEWATER**
6 **SYSTEM?**

7 A. No. In Aqua’s response to Standard Data Request No. 9 (Aqua filing, Exhibit Z),
8 Aqua states that it’s not presently aware of any needed leases, easements, or
9 access to public rights-of-way that will not be transferred at closing. Aqua also
10 states that the mapping of easements and rights-of-way from EWT’s abstractor’s
11 report is not yet completed. However, in response to I&E-I-21, Aqua states that
12 EWT identified 22 properties with missing easements. Aqua states that it is
13 working with EWT to obtain the easements on those properties (I&E Exhibit
14 No. 1, Schedule 1).

15
16 **Q. WHAT IS YOUR CONCERN ABOUT MISSING EASEMENTS AND**
17 **OTHER PROPERTY RIGHTS AS DISCUSSED ABOVE?**

18 A. In the absence of the abstractor’s search report that will identify the missing
19 easements and other property rights, the UVEs’ presumptive valuation of EWT’s
20 system being conveyed with all land rights necessary to operate the system,
21 including easement rights, is likely inaccurate or incomplete. This is true because
22 unless EWT conveys all necessary easements and access to public rights-of-way to

1 Aqua at closing, the UVEs' appraisals, which assume that all necessary property
2 rights will be transferred to Aqua, will be factually inaccurate.

3
4 **Q. WHAT IS YOUR RECOMMENDATION REGARDING MISSING**
5 **EASEMENTS AND OTHER PROPERTY RIGHTS?**

6 A. I recommend that the Commission condition the approval of Aqua's Application
7 that the closing of the transaction not be permitted to occur unless and until EWT
8 has (1) identified all missing easements including rights-of-way and other property
9 rights; (2) taken any and all necessary actions to obtain the missing easements and
10 other property rights so that they may be conveyed to Aqua at closing; and
11 (3) borne all costs and expenses for obtaining and conveying the missing
12 easements and other property rights so that Aqua's ratepayers are not burdened
13 with those costs.

14 Additionally, I recommend that the Commission condition the approval of
15 Aqua's Application that for circumstances beyond EWT's control where it is
16 unable to transfer all missing easements including rights-of-way and other
17 property rights before or at the closing of the transaction, Aqua and EWT may at
18 their discretion close the transaction without the transfer of missing easements and
19 other property rights, provided that an escrow account be established of an
20 appropriate dollar amount from the purchase price to be used to obtain any post-
21 closing transfers of the easements and other real property rights.

1 **Q. WHAT IS THE BASIS OF YOUR RECOMMENDATION?**

2 A. Adopting the above condition is necessary to ensure that the UVEs' assumption
3 that all necessary land rights would be conveyed to Aqua at closing is accurate. I
4 note that Section 6.05 (Easements) of the Asset Purchase Agreement (Aqua filing,
5 Exhibit B, pp. 25-26) provides a process for identification and conveyance of
6 property easements and other property rights. However, in Section 6.06
7 (Unscheduled Real Property) of the Asset Purchase Agreement (Aqua filing,
8 Exhibit B, p. 26), Aqua and EWT have acknowledged that EWT may own
9 interests in or have the legal right to use or occupy the real property and easements
10 that are necessary or essential to the operation of the wastewater system and that
11 are not specifically identified in Schedule 4.09 (Unscheduled Real Property) of the
12 Asset Purchase Agreement. Therefore, it is very important and essential that the
13 Commission accept my recommendation to ensure that ratepayers are protected
14 from the uncertainty and the costs of acquiring the missing easements and other
15 property rights necessary for Aqua's operation of EWT's wastewater system.

16

17 **POTENTIAL FUTURE RATE IMPACT IMPLICATIONS**

18 **Q. DO YOU HAVE ANY CONCERNS REGARDING THE FUTURE RATE**
19 **IMPACT FOR EWT CUSTOMERS IF THE ACQUISITION IS**
20 **APPROVED BY THE COMMISSION?**

21 A. Yes. I am concerned about the potential rate impact on EWT's customers if this
22 acquisition is approved by the Commission for two reasons. First, the cost of

1 capital for capital improvements to EWT’s system will be significantly higher if
2 they are to be recovered through rates by Aqua rather than by EWT. Second, if
3 the acquisition of EWT by Aqua is approved by the Commission, EWT
4 customers’ rates would include the recovery of federal and state taxes as well as
5 depreciation, which is currently not the case for EWT customers.

6
7 **Q. WHAT WOULD BE THE IMPACT OF THE ESTIMATED CAPITAL**
8 **IMPROVEMENTS OVER THE NEXT TEN YEARS TO EWT’S SYSTEM**
9 **IF THEY WERE PERFORMED BY AQUA OR EWT?**

10 A. Aqua estimates it will invest approximately \$17,000,000 in capital projects over
11 the next ten years to improve EWT’s system (Aqua Statement No. 2, pp. 10-11).
12 Aqua used a weighted average cost of capital of 7.37% in calculating the revenue
13 deficiency and overall impact on customers in the proposed transaction (Aqua
14 Statement No. 1, Appendix A, p. 1). In comparison, Aqua’s fair market valuation
15 report prepared by Gannett Fleming used weighted average cost of capital of
16 3.09% for EWT (Aqua Exhibit Q, p. 28).

17 The example below illustrates the impact of the cost of capital for Aqua and
18 EWT:

19

| Company | Cost of Capital | Estimated Capital Improvements Over the Next 10 Years | Impact |
|----------------|------------------------|--|------------------|
| Aqua | 7.37% | \$17,000,000 | \$1,252,900 |
| East Whiteland | 3.09% | \$17,000,000 | \$525,300 |
| Difference | | | <u>\$727,600</u> |

1 In this example, the cost of capital for improvements to EWT’s system over the next
2 ten years would be \$727,600 higher if it were performed by Aqua rather than by
3 EWT. This is primarily due to the fact that debt is the only source of capital for
4 EWT compared to Aqua which utilizes both common equity and debt resulting in a
5 substantially higher cost of capital.

6 In fact, this cost disparity becomes even greater when the Aqua return is
7 grossed up for the tax impact that is not attributable to a municipality. Using the tax
8 gross up factor from Aqua’s most recent base rate case of 1.4227² increases the
9 impact of \$1,252,900 of plant additions to \$1,782,501 ($\$1,252,900 \times 1.4227$), which
10 increases the difference by \$1,257,201 ($\$1,782,501 - \$525,300$).

11
12 **Q. HOW WOULD TAXES AND DEPRECIATION IMPACT EWT**
13 **CUSTOMERS’ RATES IF THE ACQUISITION OF EWT BY AQUA IS**
14 **APPROVED BY THE COMMISSION?**

15 A. Municipalities such as EWT do not pay federal and state income taxes unlike Aqua
16 which does pay federal and state taxes as an investor-owned utility. If EWT is
17 acquired by Aqua, Aqua’s federal and state taxes would then be recovered in rates
18 from EWT’s customers. Additionally, annual depreciation is also included in rates
19 for investor-owned utilities such as Aqua, but this is not the case for municipal
20 owned utilities like EWT. Therefore, if the Commission approves the acquisition,

² Docket Nos. R-2021-3027385 and R-2021-3027386. Aqua Exhibit 1-A, Schedule A-5, line 14.

1 EWT customers' rates would increase to cover state and federal taxes as well as
2 annual depreciation in rates in a future base rate case filing.

3

4 **Q. ARE YOU MAKING ANY RECOMMENDATIONS REGARDING YOUR**
5 **CONCERNS ABOUT THE FUTURE RATE IMPACTS IF THE**
6 **ACQUISITION IS APPROVED BY THE COMMISSION?**

7 A. No. While I am not making a recommendation for the Commission to deny the
8 application for Aqua to acquire EWT's system, I believe it is important to remind
9 all parties, including the Commission, of the potential impact of the acquisition on
10 EWT and Aqua customers' rates.

11

12 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

13 A. Yes.

Professional and Educational Experience
Christopher Keller

Professional Experience

January 2014 to Present
Fixed Utility Financial Analyst
Pennsylvania Public Utility Commission, Harrisburg, Pennsylvania
Bureau of Investigation & Enforcement

September 2008 to January 2014
Insurance Company Financial Analyst
Pennsylvania Insurance Department, Harrisburg, Pennsylvania
Bureau of Licensing & Financial Analysis

Education and Training

FAI Utility Finance and Accounting for Financial Professionals, Boston, MA
May 21-23, 2014

York College of Pennsylvania, York, Pennsylvania
Master of Business Administration, Finance Concentration, 2008
Bachelor of Science, Accounting, 2006

Testimony Submitted

I have testified and/or submitted testimony in the following proceedings:

- Docket No. P-2021-3030012 – Metropolitan Edison Company (DSP)
- Docket No. P-2021-3030013 – Pennsylvania Electric Company (DSP)
- Docket No. P-2021-3030014 – Pennsylvania Power Company (DSP)
- Docket No. P-2021-3030021 – West Penn Power Company (DSP)
- Docket No. R-2021-3026116 – Borough of Hanover – Water (ROR)
- Docket No. R-2021-3025206 – Community Utilities of Pennsylvania – Water Division (ROR)
- Docket No. R-2021-3025207 – Community Utilities of Pennsylvania – Wastewater Division (ROR)
- Docket No. R-2021-3025652 – UGI Utilities, Inc. – Gas Division (1307(f))
- Docket No. R-2021-3024750 – Duquesne Light Company (O&M and ROR)
- Docket No. R-2021-3024296 – Columbia Gas of Pennsylvania, Inc. (ROR)
- Docket No. R-2020-3018929 – PECO Energy Company – Gas Division (ROR)
- Docket No. P-2020-3020914 – Twin Lakes Utilities, Inc. (529 Proceeding)
- Docket No. R-2020-3018835 – Columbia Gas of Pennsylvania, Inc. (ROR)
- Docket No. R-2020-3019680 – UGI Utilities, Inc. (1307(f))
- Docket No. P-2020-3019356 – PPL Electric Utilities Corporation (DSP)

**Professional and Educational Experience
Christopher Keller**

Testimony Submitted (Continued)

I have testified and/or submitted testimony in the following proceedings:

- Docket No. R-2019-3015162 – UGI Utilities, Inc. – Gas Division (ROR)
- Docket No. R-2019-3010955 – City of Lancaster – Sewer Fund (O&M)
- Docket No. R-2019-3009647 – UGI Utilities, Inc. – Gas Division (1307(f))
- Docket No. R-2018-3006818 – Peoples Natural Gas Company LLC (O&M)
- Docket No. R-2018-3000124 – Duquesne Light Company (O&M)
- Docket No. R-2018-3001631 – UGI Central Penn Gas, Inc. (1307(f))
- Docket No. R-2018-3001632 – UGI Penn Natural Gas, Inc. (1307(f))
- Docket No. R-2018-3001633 – UGI Utilities, Inc. (1307(f))
- Docket No. R-2018-2645938 – Philadelphia Gas Works (1307(f))
- Docket No. P-2017-2637855 – Metropolitan Edison Company (DSP)
- Docket No. P-2017-2637857 – Pennsylvania Electric Company (DSP)
- Docket No. P-2017-2637858 – Pennsylvania Power Company (DSP)
- Docket No. P-2017-2637866 – West Penn Power Company (DSP)
- Docket No. R-2017-2602627 – UGI Central Penn Gas, Inc. (1307(f))
- Docket No. R-2017-2602638 – UGI Utilities, Inc. (1307(f))
- Docket No. R-2017-2586783 – Philadelphia Gas Works (O&M)
- Docket No. R-2017-2587526 – Philadelphia Gas Works (1307(f))
- Docket No. I-2016-2526085 – Delaware Sewer Company (529 Proceeding)
- Docket No. R-2016-2531550 – Citizens’ Electric Company (O&M)
- Docket No. R-2016-2531551 – Wellsboro Electric Company (O&M)
- Docket No. R-2016-2537349 – Metropolitan Edison Company (CWC and CAP)
- Docket No. R-2016-2537352 – Pennsylvania Electric Company (CWC and CAP)
- Docket No. R-2016-2537355 – Pennsylvania Power Company (CWC and CAP)
- Docket No. R-2016-2537359 – West Penn Power Company (CWC and CAP)
- Docket No. R-2016-2543311 – UGI Central Penn Gas, Inc. (1307(f))
- Docket No. R-2015-2518438 – UGI Utilities, Inc. – Gas Division (CWC and USP)
- Docket No. P-2015-2511333 – Metropolitan Edison Company (DSP)
- Docket No. P-2015-2511351 – Pennsylvania Electric Company (DSP)
- Docket No. P-2015-2511355 – Pennsylvania Power Company (DSP)
- Docket No. P-2015-2511356 – West Penn Power Company (DSP)
- Docket No. R-2015-2468056 – Columbia Gas of Pennsylvania, Inc. (O&M)
- Docket No. P-2014-2404341 – Delaware Sewer Company (529 Investigation)
- Docket No. R-2014-2452705 – Delaware Sewer Company (O&M)
- Docket No. R-2014-2428304 – Borough of Hanover – Water (O&M)
- Docket No. R-2014-2419774 – Wellsboro Electric Company (Customer Choice Support Charge)
- Docket No. R-2014-2420279 – UGI Central Penn Gas, Inc. (1307(f))

Assisted with the Following Cases

- Docket No. R-2017-2631441 – Reynolds Water Company (ROR)
- Docket No. R-2016-2580030 – UGI Penn Natural Gas, Inc. (ROR)
- Docket No. R-2014-2462723 – United Water Pennsylvania (CWC)
- Docket No. R-2014-2428742 – West Penn Power Company (CWC)
- Docket No. R-2014-2428743 – Pennsylvania Electric Company (CWC)
- Docket No. R-2014-2428744 – Pennsylvania Power Company (CWC)
- Docket No. R-2014-2428745 – Metropolitan Edison Company (CWC)
- Docket No. R-2013-2397353 – Pike County Light & Power Company (Gas) (O&M)
- Docket No. R-2013-2397237 – Pike County Light & Power Company (Electric) (O&M)

I&E Exhibit No. 1
Witness: Christopher Keller

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

**Application of Aqua Pennsylvania Wastewater, Inc. for Acquisition of the
Wastewater Collection and Conveyance System Assets of East Whiteland
Township**

Docket No. A-2021-3026132

Exhibit to Accompany

the

Direct Testimony

of

Christopher Keller

Bureau of Investigation and Enforcement

Concerning:

**Summary of 66 Pa. C.S. § 1102 and 66 Pa. C.S. § 1329
Easements and Other Property Rights
Potential Future Rate Impact**

Respondent: William C. Packer
Date: 02/09/2022

APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. A-2021-3026132

BUREAU OF INVESTIGATION AND ENFORCEMENT

SET I INTERROGATORIES

- I&E-I-21** Reference Aqua Filing Exhibit B, Asset Purchase Agreement, Section 4.09 provisions regarding the transfer of EWT's real estate including leases, easement rights, and access to public rights-of-way related to the system:
- A. State whether EWT has identified all real estate, including leases, easement rights, and access to public rights-of-way that must be transferred to Aqua to facilitate Aqua's operation of EWT's wastewater system.
 - B. If EWT has identified all real estate, including leases, easement rights, and access to public rights-of-way that must be transferred to Aqua to facilitate Aqua's operation of EWT's wastewater system, state whether it has the present ability to transfer everything to Aqua. If not, explain why not.
 - C. If EWT has not identified all real estate, including leases, easement rights, and access to public rights-of-way that must be transferred to Aqua to facilitate Aqua's operation of EWT's wastewater system, explain why not and provide the anticipated date that identification will be complete.

RESPONSE

- A. EWT has identified all property rights to be transferred to Aqua.
- B. EWT has identified 22 properties with missing easements. The Company is working with the Township to obtain easements for these properties.
- C. Please see the response to A., above.

**I&E Statement No. 2
Witness: Ethan H. Cline**

**Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 507, 1102,
and 1329 of the Public Utility Code for its Acquisition of the Wastewater System
Assets of East Whiteland Township**

Docket No. A-2021-3026132

Direct Testimony

of

Ethan H. Cline

Bureau of Investigation and Enforcement

Concerning:

**Proposed Rate Freeze
Potential Future Rate Impacts
Cost of Service Study**

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1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Ethan H. Cline. My business address is 400 North Street, Harrisburg,
4 Pennsylvania 17120.

5

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am employed by the Pennsylvania Public Utility Commission (“Commission”) in
8 the Bureau of Investigation and Enforcement (“I&E”) as a Fixed Utility Valuation
9 Engineer.

10

11 **Q. WHAT IS YOUR EDUCATIONAL AND EMPLOYMENT EXPERIENCE?**

12 A. Appendix A, which is attached to my testimony, describes my educational
13 background and professional experience.

14

15 **Q. PLEASE DESCRIBE THE ROLE OF I&E IN THIS PROCEEDING.**

16 A. I&E is responsible for protecting the public interest in proceedings before the
17 Commission. The I&E analysis in the proceeding is based on its responsibility to
18 represent the public interest. This responsibility requires balancing the interests of
19 the ratepayers, the company, and the regulated community.

20

21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 A. The purpose of my direct testimony is to address regulatory issues relating to the

1 Application (“Application” or “Transaction”) of Aqua Pennsylvania Wastewater,
2 Inc. (“Aqua” or “Company”) for approval of its acquisition of the wastewater
3 system assets of East Whiteland Township (“East Whiteland”), related wastewater
4 service rights, fair market valuation ratemaking treatment, accrual and deferral of
5 certain post-acquisition improvement costs, and certain contracts with municipal
6 corporations.

7
8 **Q. DOES YOUR DIRECT TESTIMONY INCLUDE AN EXHIBIT?**

9 A. Yes. I&E Exhibit No. 2 contains an exhibit in support of my direct testimony.

10
11 **Q. WHAT IS AQUA REQUESTING IN THIS APPLICATION?**

12 A. Under 66 Pa. C.S. § 1102 (“Section 1102”), Aqua is requesting approval to
13 acquire the East Whiteland wastewater collection system and for the right to begin
14 providing wastewater service in the areas currently served by East Whiteland.
15 Additionally, under 66 Pa. C.S § 1329 (“Section 1329”), Aqua is seeking to utilize
16 the purchase price of \$54,930,000 for the ratemaking rate base of East Whiteland
17 assets. The \$54,930,000 is slightly less than the fair market value of \$56,724,729.
18 Aqua is also requesting that the Commission approve, if necessary, its acquisition
19 agreement with East Whiteland and the assignment of twenty-two contracts with
20 municipalities under 66 Pa. C.S. § 507. Aqua is also seeking approval under 66
21 Pa. C.S. § 2120, to the extent necessary, of the assignment of a contract to which
22 Aqua Resources, Inc. an affiliate of Aqua, is a party (Aqua St. No. 1, pp. 6-7).

1 Finally, Aqua is seeking approval for a rate freeze for East Whiteland customers
2 that will extend three years after the closing of the transaction (Aqua St. No. 1, pp.
3 11-12).

4
5 **Q. WHY DOES AQUA NEED APPROVAL OF THE ACQUISITION UNDER**
6 **SECTION 1102?**

7 A. Section 1102 requires the Commission to issue a Certificate of Public
8 Convenience prior to the Company acquiring the wastewater assets of East
9 Whiteland and providing wastewater service in East Whiteland's service territory.
10 The Commission will only grant a Certificate of Public Convenience if it
11 determines that such a certificate is "necessary or proper for the service,
12 accommodation, convenience or safety of the public." (66 Pa. C.S. § 1103(a)).
13 Further, "the Commission, in granting such certificate, may impose such
14 conditions as it may deem to be just and reasonable." (66 Pa. C.S. § 1103(a)).

15
16 **Q. WHAT DOES 66 Pa. C.S. § 1329 ALLOW?**

17 A. Section 1329 allows investor owned water and wastewater utilities to use the fair
18 market valuation in the acquisition of water and wastewater systems that are
19 owned by a municipal corporation or authority. Using the Section 1329
20 framework enables the investor owned utility to establish the ratemaking rate base
21 of the acquired property in the same proceeding that it seeks to acquire the
22 property.

1 **Q. WHAT DOES THE FAIR MARKET VALUE APPROACH REQUIRE?**

2 A. The fair market valuation approach dictates that once the buyer and the seller
3 agree to its use, they must engage the services of a licensed engineer to conduct an
4 assessment of the tangible assets of the seller. The licensed engineer assessment is
5 then presented to two utility valuation experts (“UVE”), one to represent the buyer
6 and one to represent the seller, to conduct independent analyses based on the
7 Uniform Standards of Professional Appraisal Practice, employing the cost, market
8 and income approaches. The results of the UVEs’ analyses are then incorporated
9 into the application submitted to the Commission for approval under Section 1102
10 of the Code.¹ For ratemaking purposes, the valuation will be the lesser of the fair
11 market value or the negotiated purchase price. Finally, Section 1329 allows the
12 acquiring public utility’s post-acquisition improvement costs not recovered
13 through a distribution system improvement charge to be deferred for book and
14 ratemaking purposes.

15
16 **Q. WHAT ISSUES WILL YOU ADDRESS IN YOUR DIRECT TESTIMONY?**

17 A. My direct testimony will address the three-year rate freeze proposed by Aqua, future
18 rate increases that may be experienced by customers of East Whiteland and the
19 necessity of requiring Aqua to undertake a separate Cost of Service Study for the
20 East Whiteland system in its next base rate case.

¹ http://puc.pa.gov/filing_resources/issues_laws_regulations/section1329_applications.aspx

1 **Q. WHAT IS I&E’S OVERALL RECOMMENDATION REGARDING THE**
2 **ACQUISITION?**

3 A. I&E’s overall recommendation is that the Commission approve Aqua’s Application
4 on the condition of the removal of the three-year rate freeze and the inclusion of a
5 separate cost of service study in the next base rate case as I discuss below.

6

7 **DESCRIPTION OF THE SYSTEM**

8 **Q. PLEASE DESCRIBE THE EAST WHITELAND SYSTEM.**

9 A. East Whiteland currently provides wastewater service to approximately 3,895
10 customers using a system that includes, but is not limited to, collection and
11 conveyance assets, pumping stations, manholes, and land and land rights (Aqua St.
12 No. 1, p. 9). East Whiteland currently accepts flows and collects sewer rental fees
13 from the adjoining municipalities of East Goshen Township, Charlestown Township,
14 and Malvern Borough. It then pays sewer rental fees to Tredyffrin Township, East
15 Goshen Township, and a company for conveyance and to the Valley Forge Sewer
16 Authority Wastewater Treatment Plant for treatment capacity. (Aqua St. No. 3, pp.
17 6-7). The assets that Aqua is seeking to purchase from East Whiteland consists of
18 approximately 329,072 linear feet of gravity and force mains, approximately 1,506
19 manholes, eleven pump stations, associated infrastructure and appurtenances, and
20 land and land rights. (Aqua St. No. 3, p. 6).

1 **Q. WHAT IS THE CONDITION OF EAST WHITELAND’S WASTEWATER**
2 **COLLECTION AND CONVEYANCE ASSETS?**

3 A. According to witness Ferguson on pages 7-8 of Aqua Statement No. 3, the East
4 Whiteland system current has an Act 537 plan with the Pennsylvania Department of
5 Environmental Protection (“DEP”) and was under a Corrective Action Plan starting
6 from 2013 until it was lifted in 2015. Witness Ferguson noted that East Whiteland
7 experienced three sanitary sewer overflows in the most recent five years and that all
8 were addressed immediately.

9

10 **PROPOSED RATE FREEZE**

11 **Q. DOES THE APPLICATION INCLUDE ANY PROVISIONS REGARDING**
12 **FUTURE RATE INCREASES?**

13 A. Yes. As described by Aqua witness Packer on pages 11-12 of Aqua Statement No.
14 1, “base rates shall not be increased until after the third anniversary of the Closing
15 Date.”

16

17 **Q. IS THE RATE FREEZE A REASONABLE PROVISION TO INCLUDE IN**
18 **THE AGREEMENT?**

19 A. No. Including in the Application any form of rate freeze, particularly one that
20 lasts three years after the closing of the Transaction, is not reasonable. Therefore,
21 this provision should not be approved by the Commission.

1 **Q. WHY IS INCLUDING A RATE FREEZE AS A PROVISION OF THE**
2 **APPLICATION NOT REASONABLE?**

3 A. Including a rate freeze in the Application is not reasonable for four reasons. First,
4 based on Aqua’s current base rate case filing schedule the three-year rate freeze is
5 either unnecessary or would constitute a Rate Stabilization Plan. Second, the rate
6 freeze provision adds no value to the Transaction. Third, the parties failed to
7 acknowledge that the Commission is the entity that makes the final determination
8 on whether and to what extent rates will increase regardless of any rate freeze
9 provision in the Asset Purchase Agreement. Fourth, a rate freeze will cause 100%
10 of the projected revenue deficiency, which is likely understated, to be recovered
11 from other Aqua customers.

12
13 **Q. WHAT IS THE EARLIEST THAT THE PROPOSED RATE FREEZE**
14 **WILL END?**

15 A. Section 7.03(a) of the Application states “Buyer shall not propose to increase Base
16 Rates until after the third anniversary of the Closing Date.” Based upon the
17 litigation schedule of the current proceeding, the earliest possible Closing date
18 would be sometime in 2022. Therefore, the rate freeze would be for a minimum
19 period of three years after 2022 which would be sometime in 2025.

20
21 **Q. WHAT IS AQUA’S RECENT BASE RATE CASE FILING HISTORY?**

22 A. Aqua’s last three base rate cases were filed in 2011 (Docket No. R-2011-

1 2267958), 2018 (R-2018-3003561), and most recently in 2021 (R-2020- 3019369).

2 Though Aqua customers experienced a long gap without a base rate increase
3 between 2011 and 2018, it is unlikely that Aqua will wait such a long period
4 between rate cases going forward. This is due, in part, because of the need for
5 Aqua to finance the purchase price and any capital projects of the various systems
6 that it is acquiring through the 1329 process.

7
8 **Q. IS IT POSSIBLE TO ACCURATELY PROJECT WHEN THE**
9 **CUSTOMERS ACQUIRED FROM EAST WHITELAND WILL**
10 **EXPERIENCE AN INCREASE IN BASE RATES AFTER CLOSING?**

11 A. No. The timing of when the acquired East Whiteland customers experience an
12 increase in base rates after Closing depends both on the final closing date and the
13 future Aqua base rate case filing date. Issues have occurred in previous 1329
14 acquisition cases that have caused delays in Closing dates. Therefore, while the
15 closing date is not certain, the possibility of the three-year anniversary of the
16 Closing occurring after Aqua’s next base rate increase is a concern.

17
18 **Q. WHAT IS A RATE STABILIZATION PLAN?**

19 A. A rate stabilization plan is a plan that will hold rates constant or phase rates in
20 over a period of time after the next base rate case (66 Pa. C.S. § 1329(g)).

1 **Q. DOES AQUA CLAIM THAT THE ACQUISITION CONTAINS A RATE**
2 **STABILIZATION PLAN?**

3 A. Aqua witness Packer explicitly stated on page 11 of Aqua Statement No. 1 that the
4 Application does not include a Rate Stabilization Plan.

5
6 **Q. WOULD THE RATE FREEZE CONSTITUTE A RATE STABILIZATION**
7 **PLAN IF IT LASTED BEYOND AQUA’S NEXT BASE RATE CASE?**

8 A. In my opinion, yes. A rate freeze that would cause Aqua to not propose an
9 increase in rates for the East Whiteland system customers in the first base rate
10 after the Closing would fit within the definition of a rate stabilization plan as
11 described above. It is not reasonable to include such a provision without
12 considering the possibility that it would lead to the need for a rate stabilization
13 plan.

14
15 **Q. DID AQUA IDENTIFY WHY IT INCLUDED THE THREE-YEAR RATE**
16 **FREEZE IN THE APPLICATION?**

17 A. Yes. In its response to discovery from the Office of Small Business Advocate
18 (“OSBA”), OSBA-I-1 the Company stated that “[t]he Company believed
19 providing a three-year rate freeze, which was an option in the Request for Bids
20 response, would make its bid competitive.” (I&E Ex. No. 2, Sch. 1).

1 **Q. DID AQUA IDENTIFY ANY MONETARY IMPACT ON THE AGREED**
2 **UPON PURCHASE PRICE OF NOT INCLUDING THE THREE-YEAR**
3 **RATE FREEZE?**

4 A. In its response to OSBA-I-3, attached as I&E St. No. 2, Sch. 2, Aqua stated that it
5 does not have that information.

6
7 **Q. BASED UPON THESE RESPONSES, WAS A RATE FREEZE**
8 **NECESSARY FOR EAST WHITELAND TO SELL THE SYSTEM?**

9 A. No. Aqua included a three-year freeze to convince East Whiteland Township to
10 select it as the winning bidder. This is a detriment to the public interest because
11 the three-year rate freeze won't cost Aqua anything since, as described below,
12 100% of the revenue deficiency will be paid for by other ratepayers.

13
14 **Q. DID EITHER AQUA OR EAST WHITELAND ACKNOWLEDGE IN**
15 **DIRECT TESTIMONY THAT THE COMMISSION HAS FINAL SAY**
16 **REGARDING ANY AND ALL POTENTIAL RATE INCREASES POST**
17 **CLOSING?**

18 A. No. It does not appear that either party mentioned in their discussion of the rate
19 freeze the fact that the Commission has final say on any post-closing base rate
20 increases nor is it mentioned in 66 Pa. C.S. § 1329(g) of the Asset Purchase
21 Agreement.

1 **Q. WHY IS IT IMPORTANT TO ACKNOWLEDGE THAT THE**
2 **COMMISSION HAS FINAL SAY REGARDING ALL POST-CLOSING**
3 **RATE INCREASES?**

4 A. It is important to acknowledge that the Commission has final say regarding all
5 post-Closing rate increases because any rate provisions included in an Application
6 are subject to Commission oversight. I am unaware of any system acquired
7 through the 1329 process that the Commission has not assigned some form of rate
8 increase regardless of any rate delay or freeze provisions proposed in the
9 subsequent base rate cases. Therefore, regardless of whether or not the buyer and
10 seller have noted that the Commission makes the final determination on any rate
11 increase, it necessarily means the rate freeze provision amounts to political theater
12 in order to make the pending acquisition more palatable to current East Whiteland
13 customers.

14
15 **Q. HOW WILL A RATE FREEZE CAUSE 100% OF THE REVENUE**
16 **DEFICIENCY TO BE RECOVERED FROM OTHER AQUA**
17 **CUSTOMERS?**

18 A. Normally in the first base rate case, the rates of the acquired system are increased
19 to recover some or all of the revenue deficiency. The Company projected a
20 revenue deficiency of approximately \$5 million for East Whiteland (Aqua St. No.
21 1, Appendix A). If East Whiteland is under a rate freeze at the time of the next
22 base rate proceeding, 100% of the revenue deficiency must be recovered from

1 other customers. Furthermore, as described below, the approximately \$5 million
2 revenue deficiency is likely understated.

3
4 **POTENTIAL FUTURE RATE IMPACT**

5 **Q. DID AQUA SEND A NOTICE TO EAST WHITELAND CUSTOMERS**
6 **REGARDING THE POTENTIAL INCREASE TO RATES AS A RESULT**
7 **OF THE ACQUISITION?**

8 A. Yes. Exhibit 12 of the Application includes a copy of the customer notice sent to
9 existing East Whiteland customers that indicated a potential 132.93% increase to
10 their rates at the time of Aqua's next base rate increase.

11
12 **Q. HOW DID AQUA DETERMINE THE NOTICED 132.93% INCREASE?**

13 A. As described on pages 18-19 of Aqua Statement No. 1, the 132.93% increase was
14 calculated as 100% of the revenue deficiency prior to any the allocation of a
15 portion of the wastewater revenue requirement to water customers as allowed by
16 Act 11 of 2012 (Aqua St. 1, Ex. A).

17
18 **Q. DO YOU BELIEVE THE ESTIMATED 132.93% INCREASE IS**
19 **UNDERSTATED?**

20 A. Yes. The 132.93% increase is based upon the purchase price and includes only
21 one year of post acquisition plant additions. However, if Aqua files a base rate
22 case more than one year after the acquisition, the requested revenue requirement

1 for East Whiteland would be based upon additional years of system plant
2 additions. These potential plant increases would drive up the East Whiteland
3 system revenue requirement and increase the currently estimated 132.93%
4 increase. This timeline of plant addition is currently how systems are added
5 through the 1329 process and claims are made in the subsequent base rate cases.
6 These additional years and plant additions will increase the revenue requirement
7 of East Whiteland customers and increase the subsidy that Aqua will request be
8 provided from other Aqua customers.

9
10 **Q. ARE THERE ANY OTHER FACTORS THAT COULD INCREASE THE**
11 **ESTIMATED 132.93% ESTIMATED RATE INCREASE?**

12 A. Yes. As described by I&E witness Keller on pages 6-8 of I&E Statement No. 1,
13 Aqua's cost of capital is higher than that of East Whiteland. Therefore, financing
14 the proposed approximately \$16.92 million of plant additions over the next ten
15 years (Aqua St. No. 2, pp. 10-11), some of which will be in the first base rate case,
16 will further impact the 132.93% increase because of the higher financing costs and
17 depreciation expense associated with ownership by Aqua as compared to the cost
18 of East Whiteland financing these additions.

19
20 **Q. ARE YOU RECOMMENDING AQUA CHANGE ITS CUSTOMER**
21 **NOTICES?**

22 A. No. However, I believe it is important to point out that the revenue requirement in

1 the first base rate case could justify a larger increase than what customers have
2 been noticed for and that information should be included on the record in this
3 proceeding.

4
5 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS CONCERNING**
6 **THE APPLICATION?**

7 A. I recommend that the three-year rate freeze be removed from the Application. I
8 also recommend that the record in this case indicate that the Company's estimated
9 revenue requirement includes only one year of post acquisition plant additions and
10 more time between the Closing and the next base rate case would increase the
11 revenue requirement of the East Whiteland system. This recommendation will
12 alert the customers that the increase may be more than they initially anticipated.

13
14 **Q. PLEASE SUMMARIZE THE RATIONALE FOR RECOMMENDING THE**
15 **THREE-YEAR RATE FREEZE BE REMOVED FROM THE**
16 **APPLICATION?**

17 A. As I discussed above, the three-year rate freeze provides no actual certainty
18 regarding East Whiteland customer rates; the rates, whether the next base rate case
19 occurs during or after the freeze period, will ultimately be set by the Commission
20 regardless of this proposal. Also, if approved, 100% of the revenue deficiency
21 which is likely to be higher than the projected approximately \$5 million will be
22 recovered from other Aqua customers. Therefore, the only meaningful result of

1 including the freeze in the Application is to bait and switch customers with
2 skewed information about the real costs and impacts of the transaction. There is
3 also no reason to mislead customers by making them believe rates can be frozen
4 during this application process. Finally, I believe a rate freeze could cause
5 customers to look more favorably on the proposed acquisition, at least in the short
6 term. However, after the freeze is lifted, this favorability could end when the first
7 rate increase is implemented. Overall, a three-year rate freeze is not in the public
8 interest and, as such, the three-year rate freeze should be removed from the
9 Application.

11 **COST OF SERVICE STUDY**

12 **Q. WHAT IS YOUR COST OF SERVICE STUDY RECOMMENDATION?**

13 A. I recommend that Aqua provide a separate COSS for the East Whiteland system in
14 its next rate case that separately identifies the plant in service costs at the time the
15 East Whiteland system was purchased, the cost of any plant retirements, and the
16 cost of any plant investments.

18 **Q. WHY IS KNOWING THE COST TO SERVE THE EAST WHITELAND 19 SYSTEM IMPORTANT?**

20 A. In general, the primary goal of a COSS is to determine a utility's revenue
21 requirement to provide service to its different customer classes. In this case, a

1 COSS for the East Whiteland wastewater system is beneficial because it:

- 2 • Determines the cost to operate the East Whiteland wastewater system
- 3 separately;
- 4 • Calculates the costs of the utility's different services;
- 5 • Separates the costs between the utility's different customer classes and
- 6 service areas;
- 7 • Attributes costs to the utility's different customer classes and service areas;
- 8 and
- 9 • Determines how costs will be recovered from the utility's different
- 10 customer classes and service areas.

11 Moreover, a COSS can establish the existence and extent of subsidization (inter-
12 and intra-class) and assist in determining the appropriate amount of revenue
13 requirement to be shifted from wastewater customers to water customers, which
14 Aqua has utilized in past base rate cases. Therefore, without the COSS that
15 includes segregated wastewater costs, the appropriate ratemaking
16 recommendations for those costs cannot be proposed or implemented.

17 Additionally, and specifically for the present case, a separate COSS will help to
18 determine the proper allocation of any revenue shortfall among Aqua's existing
19 customers.

1 **Q. HAS AQUA IDENTIFIED HOW MUCH OF ITS CURRENT RATE BASE**
2 **IS THROUGH FAIR MARKET VALUE ADDITIONS?**

3 A. Yes. In its response to Office of Consumer Advocate discovery OCA-IV-9, the
4 Company provided a chart that showed that approximately 45.55% of its current
5 wastewater rate base consists of fair market value additions. The magnitude of the
6 rate base share related to these acquisitions only further highlights the importance
7 of requiring separate COSS' to insure that costs related to these acquisitions and
8 any proposed subsidizations by other Aqua customers are clearly identified.

9

10 **Q. HAS THE COMMISSION PREVIOUSLY ADDRESSED THE**
11 **IMPORTANCE OF REQUIRING COST OF SERVICE STUDIES FOR**
12 **ACQUIRED SYSTEMS?**

13 A. Yes. The topic of a separate COSS being required for a Section 1329 acquisition
14 was first broached in Aqua's acquisition of New Garden at Docket No. A-2016-
15 2580061, which was the first proceeding before the Commission to employ the
16 fair market valuation under Section 1329. In that case, the Commission required
17 Aqua to prepare a COSS for use in its next base rate case to separate the costs,
18 capital, and operating expenses of providing wastewater service to the newly
19 acquired New Garden customers. Pages 69-70 of the Commission's Order
20 approving Aqua's acquisition of the New Garden system, states the following:

21 Specifically, Aqua shall develop and file a cost-of-service
22 study in its next rate case pursuant to our regulations that
23 separates costs, capital, and operating expenses of providing

1 wastewater service to the New Garden customers as a stand-
2 alone rate group. Moreover, Aqua is directed to address the
3 pros and cons of designing New Garden rates as a separate rate
4 group. As a result, all parties and the Commission will be
5 informed of the overall rate impact on Aqua customers and,
6 alternatively, the result of establishing New Garden as a
7 separate rate zone.

8 Additionally, as far as I am aware, the provision of separate COSS' have been
9 approved by the Commission in all Section 1329 proceedings to date.

10 Specifically, the three most recent Section 1329 proceedings culminated in
11 settlement agreements that were approved by the Commission and which adopted
12 COSS' of acquired systems as a condition of settlement. These three proceedings
13 were Pennsylvania American Water Company's ("PAWC") acquisition of the
14 Royersford Borough system,² PAWC's acquisition of the wastewater assets of
15 Borough of Kane Authority,³ and Aqua's acquisition of the wastewater system
16 assets of Lower Makefield Township.⁴

² Application of PAWC under Sections 507, 1102, and 1329 of the Public Utility Code for Approval of its Acquisition of wastewater system assets of Royersford Borough at Docket No. A-2020-3019634, p. 35 (Order entered May 7, 2021).

³ Application of PAWC under Sections 507, 1102, and 1329 of the Public Utility Code for Approval of its Acquisition of water treatment and distribution system assets of Borough of Kane Authority at Docket No. A-2020-3021460, p. 3 (Order entered June 18, 2020).

⁴ Application of Aqua under Sections 507, 1102, and 1329 of the Public Utility Code for Approval of its Acquisition of wastewater system assets of Lower Makefield Township at Docket No. A-2021-3024267, p. 23 (Order entered January 13, 2022).

1 **Q. HAS AQUA PREVIOUSLY PROVIDED SEPARATE COST OF SERVICE**
2 **STUDIES FOR SYSTEMS ACQUIRED THROUGH SECTION 1329**
3 **APPLICATIONS IN A BASE RATE CASE?**

4 A. Yes. In its most recent base rate case at Docket Nos. R-2021-3027385 and R-
5 2021-3027386, the Company included several separate COSS' for wastewater
6 systems it acquired through Section 1329 applications.

7
8 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

9 A. Yes. However, I reserve the right to supplement or revise my recommendations if
10 additional information is received that would alter my position in this direct
11 testimony.

ETHAN H. CLINE

PROFESSIONAL EXPERIENCE AND EDUCATION

EXPERIENCE:

03/2009 - Present

Bureau of Investigation and Enforcement, Pennsylvania Public Utility Commission - Harrisburg, Pennsylvania

Fixed Utility Valuation Engineer – Assists in the performance of studies and analyses of the engineering-related areas including valuation, depreciation, cost of service, quality and reliability of service as they apply to fixed utilities. Assists in reviewing, comparing and performing analyses in specific areas of valuation engineering and rate structure including valuation concepts, original cost, rate base, fixed capital costs, inventory processing, excess capacity, cost of service, and rate design.

06/2008 – 09/2008

Akens Engineering, Inc. - Shiremanstown, Pennsylvania

Civil Engineer – Responsible, primarily, for assisting engineers and surveyors in the planning and design of residential development projects

10/2007 – 05/2008

J. Michael Brill and Associates - Mechanicsburg, Pennsylvania

Design Technician – Responsible, primarily, for assisting engineers in the permit application process for commercial development projects.

01/2006 – 10/2007

CABE Associates, Inc. - Dover, Delaware

Civil Engineer – Responsible, primarily, for assisting engineers in performing technical reviews of the sewer and sanitary sewer systems of Sussex County, Delaware residential development projects.

EDUCATION:

Pennsylvania State University, State College, Pennsylvania
Bachelor of Science; Major in Civil Engineering, 2005

- Attended NARUC Rate School, Clearwater, FL
- Attended Society of Depreciation Professionals Annual Conference and Training, 2017, 2018, and 2019

TESTIMONY SUBMITTED:

I have testified and/or submitted testimony in the following proceedings:

1. Clean Treatment Sewage Company, Docket No. R-2009-2121928
2. Pennsylvania Utility Company – Water Division, Docket No. R-2009-2103937
3. Pennsylvania Utility Company – Sewer Division, Docket No. R-2009-2103980
4. UGI Central Penn Gas, Inc., 1307(f) proceeding, Docket No. R-2010-2172922
5. AQUA Clarion Wastewater Operations, Docket No. R-2010-2166208
6. AQUA Claysville Wastewater Operations, Docket No. R-2010-2166210
7. Citizens' Electric Company of Lewisburg, Pa, Docket No. R-2010-2172665
8. City of Lancaster – Bureau of Water, Docket No. R-2010-2179103
9. Peoples Natural Gas Company LLC, Docket No. R-2010-2201702
10. UGI Central Penn Gas, Inc., Docket No. R-2010-2214415
11. Pennsylvania-American Water Company, Docket No. R-2011-2232243
12. Pentex Pipeline Company, Docket No. A-2011-2230314
13. Peregrine Keystone Gas Pipeline, LLC, Docket No. A-2010-2200201
14. Philadelphia Gas Works 1307(f), Docket No. R-2012-2286447
15. Peoples Natural Gas Company LLC, Docket No. R-2012-2285985
16. Equitable Gas Company, Docket Nos. R-2012-2312577, G-2012-2312597
17. City of Lancaster – Sewer Fund, Docket No. R-2012-2310366
18. Peoples TWP, LLC 1307(f), Docket No. R-2013-2341604
19. UGI Penn Natural Gas, Inc. 1307(f), Docket No. R-2013-2361763
20. UGI Central Penn Gas, Inc. 1307(f), Docket No. R-2013-2361764
21. Joint Application, Docket Nos. A-2013-2353647, A-2013-2353649, A-2013-2353651
22. City of Dubois – Bureau of Water, Docket No. R-2013-2350509
23. The Peoples Water Company, Docket No. R-2013-2360798
24. Pennsylvania American Water Company, Docket No. R-2013-2355276
25. Generic Investigation Regarding Gas-on-Gas Competition, Docket Nos. P-2011-227868, I-2012-2320323
26. Philadelphia Gas Works 1307(f), Docket No. R-2014-2404355
27. Pike County Light and Power Company (Gas), Docket No. R-2013-2397353
28. Pike County Light and Power Company (Electric), Docket No. R-2013-2397237
29. Peoples Natural Gas Company LLC 1307(f), Docket No. R-2014-2403939
30. UGI Penn Natural Gas, Inc. 1307(f), Docket No. R-2014-2420273
31. UGI Utilities, Inc. – Gas Division 1307(f), Docket No. R-2014-2420276
32. UGI Central Penn Gas, Inc. 1307(f), Docket No. R-2014-2420279
33. Emporium Water Company, Docket No. R-2014-2402324
34. Borough of Hanover – Hanover Municipal Water, Docket No. R-2014-2428304
35. Philadelphia Gas Works 1307(f), Docket No. R-2015-2465656
36. Peoples Natural Gas Company LLC 1307(f), Docket No. R-2015-2465172
37. Peoples Natural Gas Company – Equitable Division 1307(f), Docket No. R-2015-2465181
38. PPL Electric Utilities Corporation, Docket No. R-2015-2469275
39. UGI Penn Natural Gas, Inc. 1307(f), Docket No. R-2015-2480934

40. UGI Central Penn Gas, Inc. 1307(f), Docket No. R-2015-2480937
41. UGI Utilities, Inc. – Gas Division 1307(f), Docket No. R-2015-2480950
42. UGI Utilities, Inc. – Gas Division, Docket No. R-2015-2518438
43. Joint Application of Pennsylvania American Water, et al., Docket No. A-2016-2537209
44. UGI Utilities, Inc. – Gas Division 1307(f), Docket No. R-2016-2543309
45. UGI Central Penn Gas, Inc. 1307(f), Docket No. R-2016-2543311
46. City of Dubois – Company, Docket No. R-2016-2554150
47. UGI Penn Natural Gas, Inc., Docket No. R-2016-2580030
48. UGI Central Penn Gas, Inc. 1307(f), Docket No. R-2017-2602627
49. UGI Penn Natural Gas, Inc. 1307(f), Docket No. R-2017-2602633
50. UGI Utilities, Inc. – Gas Division 1307(f), Docket No. R-2017-2602638
51. Application of Pennsylvania American Water Company Acquisition of the Municipal Authority of the City of McKeesport, Docket No. A-2017-2606103
52. Pennsylvania American Water Company, Docket No. R-2017-2595853
53. Pennsylvania American Water Company Lead Line Petition, Docket No. P-2017-2606100
54. UGI Utilities, Inc. – Electric Division, Docket No. R-2017-2640058
55. Peoples Natural Gas Company, LLC – Peoples and Equitable Division 1307(f), Docket Nos. R-2018-2645278 & R-2018-3000236
56. Peoples Gas Company, LLC 1307(f), Docket No. R-2018-2645296
57. Columbia Gas of Pennsylvania, Inc., Docket No. R-2018-2647577
58. Duquesne Light Company, Docket No. R-2018-3000124
59. Suez Water Pennsylvania, Inc., Docket No. R-2018-3000834
60. Application of Pennsylvania American Water Company Acquisition of the Municipal Authority of the Township of Sadsbury, Docket No. A-2018-3002437
61. The York Water Company, Docket No. R-2018-3000006
62. Application of SUEZ Water Pennsylvania, Inc. Acquisition of the Water and Wastewater Assets of Mahoning Township, Docket Nos. A-2018-3003517 and A-2018-3003519
63. Pittsburgh Water and Sewer Authority, Docket Nos. R-2018-3002645 and R-2018-3002647
64. Joint Application of Aqua America, Inc. et al., Acquisition of Peoples Natural Gas Company LLC, et al., Docket Nos. A-2018-3006061, A-2018-3006062, and A-2018-3006063
65. Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority, Docket Nos. M-2018-2640802 and M-2018-2640803
66. Philadelphia Gas Works 1307(f), Docket No. R-2019-3007636
67. People Natural Gas Company, LLC, Docket No. R-2018-3006818
68. Application of Pennsylvania American Water Company Acquisition of the Steelton Borough Authority, Docket No. A-2019-3006880
69. Application of Aqua America, Inc. et al., Acquisition of the Wastewater System Assets of the Township of Cheltenham, Docket No. A-2019-3006880
70. Philadelphia Gas Works, Docket No. R-2019-3009016
71. Wellsboro Electric Company, Docket No. R-2019-3008208
72. Valley Energy, Inc., Docket No. R-2019-3008209
73. Citizens’ Electric Company of Lewisburg, Pa, Docket Non. R-2019-3008212

74. Application of Aqua America, Inc. et al., Acquisition of the Wastewater System Assets of the East Norriton Township, Docket No. A-2019-3009052
75. Peoples Natural Gas Company, LLC 1307(f), Docket No. R-2020-3017850
76. Peoples Gas Company, LLC 1307(f), Docket No. R-2020-3017846
77. Philadelphia Gas Works, Docket No. R-2020-3017206
78. Pittsburgh Water and Sewer Authority, Docket Nos. R-2020-3017951 et al.
79. Columbia Gas of Pennsylvania, Docket No. R-2020-3018835
80. Pennsylvania America Water Company, Docket Nos. R-2020-3019369 and R-2020-3019371
81. PECO Energy Company – Gas Division, Docket No. R-2020-3019829
82. PGW 1307(f), Docket No. R-2021-3023970
83. Peoples Natural Gas Company, LLC 1307(f), Docket No. R-2021-3023965
84. Peoples Gas Company, LLC 1307(f), Docket No. R-2021-3023967
85. UGI Utilities, Inc. – Electric Division, Docket No. R-2021-3023618
86. Columbia Gas of Pennsylvania, Inc., Docket No. R-2021-3024926
87. Duquesne Light Company, Docket No. R-2021-3024750
88. UGI Utilities, Inc. – Gas Division 1307(f), Docket No. R-2021-3025652
89. Pittsburgh Water and Sewer Authority, Docket Nos. R-2021-3024773 et al.
90. Application of Aqua America Wastewater, Inc. et al., Acquisition of the Wastewater System Assets of Lower Makefield Township, Docket No. A-2021-3024267
91. Aqua Pennsylvania Water, Inc. and Aqua Pennsylvania Wastewater, Inc., Docket Nos. R-2021-3027385 and R-2021-3027386
92. Application of Pennsylvania-American Water Company for Acquisition of the Wastewater Collection and Treatment System Assets of the York City Sewer Authority, Docket No. A-2021-3024681
93. City of Lancaster – Bureau of Water, Docket No. R-2021-3026682

**I&E Statement No. 1-SR
Witness: Christopher Keller**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

**Application of Aqua Pennsylvania Wastewater, Inc. for Acquisition of the
Wastewater Collection and Conveyance System Assets of East Whiteland
Township**

Docket No. A-2021-3026132

Surrebuttal Testimony

of

Christopher Keller

Bureau of Investigation & Enforcement

Concerning:

**Summary of 66 Pa. C.S. § 1102 and 66 Pa. C.S. § 1329
Easements and Other Property Rights
Potential Future Rate Impact Implications**

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1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Christopher Keller. My business address is Pennsylvania Public
4 Utility Commission, Commonwealth Keystone Building, 400 North Street,
5 Harrisburg, PA 17120.

6

7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 A. I am employed by the Pennsylvania Public Utility Commission (Commission) in
9 the Bureau of Investigation & Enforcement (I&E) as a Fixed Utility Financial
10 Analyst.

11

12 **Q. ARE YOU THE SAME CHRISTOPHER KELLER WHO SUBMITTED**
13 **THE DIRECT TESTIMONY CONTAINED IN I&E STATEMENT NO. 1**
14 **AND I&E EXHIBIT NO. 1?**

15 A. Yes.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

18 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of
19 Aqua Pennsylvania Wastewater, Inc. (Aqua) witness William C. Packer (Aqua
20 Statement No. 1-R).

1 **Q. DOES YOUR SURREBUTTAL TESTIMONY INCLUDE AN**
2 **ACCOMPANYING EXHIBIT?**

3 A. No. However, I will refer to my direct testimony and exhibit (I&E Statement No.
4 1 and I&E Exhibit No. 1) in this surrebuttal testimony.

5

6 **EASEMENTS AND OTHER PROPERTY RIGHTS**

7 **Q. SUMMARIZE YOUR RECOMMENDATION FOR EASEMENTS AND**
8 **OTHER PROPERTY RIGHTS.**

9 A. In direct testimony, I recommended that the Commission condition the approval of
10 Aqua's Application that the closing of the transaction not be permitted to occur
11 unless and until East Whiteland Township (EWT) has (1) identified all missing
12 easements including rights-of-way and other property rights; (2) taken any and all
13 necessary actions to obtain the missing easements and other property rights so that
14 they may be conveyed to Aqua at closing; and (3) borne all costs and expenses for
15 obtaining and conveying the missing easements and other property rights so that
16 Aqua's ratepayers are not burdened with those costs (I&E Statement No. 1, p. 5,
17 lines 6-13).

18 Additionally, I recommended that the Commission condition the approval
19 of Aqua's Application that for circumstances beyond EWT's control where it was
20 unable to transfer all missing easements including rights-of-way and other
21 property rights before or at the closing of the transaction, Aqua and EWT may at
22 their discretion close the transaction without the transfer of missing easements and

1 other property rights, provided that an escrow account be established of an
2 appropriate dollar amount from the purchase price to be used to obtain any post-
3 closing transfers of the easements and other real property rights (I&E Statement
4 No. 1, p. 5, lines 14-21).

5 My recommendation was based on Aqua's response to Standard Data
6 Request No. 9 (Aqua filing, Exhibit Z) which stated that it is not presently aware
7 of any needed leases, easements, or access to public rights-of-way that will not be
8 transferred at closing. Aqua also stated in its response that the mapping of
9 easements and rights-of-way from EWT's abstractor's report was not yet
10 completed. However, in response to I&E-I-21 (I&E Exhibit No. 1, Schedule 1),
11 Aqua stated that EWT identified 22 properties with missing easements. Aqua
12 stated that it was working with EWT to obtain the easements on those properties.
13 I was concerned that in the absence of the abstractor's search report that will
14 identify the missing easements and other property rights, the utility valuation
15 experts' (UVEs') presumptive valuation of EWT's system being conveyed with all
16 land rights necessary to operate the system, including easement rights, was likely
17 inaccurate or incomplete. I stressed the importance of the Commission accepting
18 my recommendation to ensure that ratepayers are protected from the uncertainty
19 and the costs of acquiring the missing easements and other property rights
20 necessary for Aqua's operation of EWT's wastewater system (I&E Statement No.
21 1, pp. 4-6).

1 **Q. DID ANY COMPANY WITNESS RESPOND TO YOUR**
2 **RECOMMENDATION?**

3 A. Yes. Aqua witness William C. Packer responded to my recommendation (Aqua
4 Statement No. 1-R, pp. 4-7).

5
6 **Q. SUMMARIZE MR. PACKER'S RESPONSE CONCERNING MISSING**
7 **EASEMENTS AND OTHER PROPERTY RIGHTS.**

8 A. Mr. Packer disagrees with my recommendations and states that my
9 recommendations are already contemplated in the Asset Purchase Agreement
10 (APA) entered between Aqua and EWT on January 8, 2021. Mr. Packer states that
11 since Aqua responded to I&E-I-21 (I&E Exhibit No. 1, Schedule 1), which stated
12 that EWT identified 22 properties with missing easements, there are now only 15
13 missing easements to be obtained by EWT where Aqua and EWT will continue to
14 work on obtaining the missing easements and are not aware of any easements that
15 will not be obtained by closing (Aqua Statement No. 1-R, p. 5, lines 13-23).

16 Mr. Packer then references Section 6.05 of the APA where EWT is required
17 to take any and all actions, including the use of its power of condemnation, to
18 obtain any missing easements so the same may be sold, assigned, transferred, and
19 conveyed to Aqua at the closing and are to be paid by EWT (Aqua Statement No.
20 1-R, p. 6, lines 8-18).

21 Mr. Packer also references Section 6.06 of the APA which states that if a
22 parcel of unscheduled real property is discovered subsequently, EWT will convey,

1 assign, or otherwise transfer any rights to each parcel of unscheduled real property,
2 with no adjustments to the purchase price, in such a manner as to provide Aqua
3 with reasonable assurances that Aqua will have the right to use or occupy the
4 unscheduled real property as it was used by EWT as of the effective date (Aqua
5 Statement No. 1-R, p. 7, lines 1-7).

6 Mr. Packer opines that since the APA addresses the rights and
7 responsibilities of Aqua and EWT regarding missing easements that my
8 recommendation is unnecessary and should be rejected (Aqua Statement No. 1-R,
9 p. 7, lines 9-12).

10
11 **Q. WHAT IS YOUR RESPONSE TO MR. PACKER'S POSITION ON YOUR**
12 **RECOMMENDATION CONCERNING THE EASEMENTS AND OTHER**
13 **PROPERTY RIGHTS?**

14 A. As discussed in my direct testimony, Aqua states that the mapping of easements
15 and rights-of-way from EWT's abstractor's report is not yet completed (I&E
16 Statement No. 1, p. 4). Additionally, Mr. Packer states in his rebuttal testimony
17 that EWT and Aqua are currently aware of 15 missing easements and other
18 property rights (Aqua Statement No. 1-R, p. 5, lines 15-17). Although, Sections
19 6.05 and 6.06 of the APA require EWT to transfer all missing easements and other
20 property rights at a later time, it is important to ensure that ratepayers are protected
21 from any uncertainty and the costs involved in acquiring and transferring the
22 missing easements and other property rights necessary for Aqua's operation of

1 EWT's wastewater system as discussed in my direct testimony (I&E Statement
2 No. 1, pp. 5-6).

3
4 **Q. HAS THE COMMISSION RECENTLY ADDRESSED I&E'S CONCERN**
5 **ABOUT MISSING EASEMENTS AND OTHER PROPERTY RIGHTS?**

6 A. Yes. The Commission recently acknowledged I&E's concern about missing
7 easements and other property rights in Pennsylvania-American Water Company's
8 (PAWC's) Section 1329 application for the acquisition of Upper Pottsgrove
9 Township's (Upper Pottsgrove's) wastewater system assets. In that proceeding,
10 the Commission directed PAWC and Upper Pottsgrove to continue working to
11 achieve the transfer of real property rights and permitted PAWC, at its discretion,
12 to close the transaction without the transfer of all real property rights, provided
13 that an escrow account was established from the purchase price to be used to
14 obtain any post-closing transfers of the real property rights.¹

15
16 **Q. DO YOU HAVE ANY CHANGES TO YOUR RECOMMENDATION IN**
17 **RESPONSE TO MR. PACKER'S REBUTTAL TESTIMONY?**

18 A. No. I continue with my recommendation regarding the easements and other
19 property rights as stated in my direct testimony. My recommendation is needed to
20 ensure that ratepayers are protected from the uncertainty and the costs of acquiring

¹ Application of Pennsylvania American Water Co. pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of Upper Pottsgrove Township, Docket No. A-2020-3021460 (Order entered September 15, 2021), p. 3.

1 the missing easements and other property rights necessary for Aqua's operation of
2 EWT's wastewater system (I&E Statement No. 1, pp. 4-6).

3
4 **POTENTIAL FUTURE RATE IMPACT IMPLICATIONS**

5 **Q. SUMMARIZE YOUR CONCERNS REGARDING THE POTENTIAL RATE**
6 **IMPACT IMPLICATIONS FOR EWT CUSTOMERS IF THE**
7 **ACQUISITION IS APPROVED BY THE COMMISSION.**

8 A. In direct testimony, I raised concerns about the potential rate impact on EWT's
9 customers if this acquisition is approved by the Commission. I expressed concern
10 that the cost of capital for capital improvements to EWT's system would be
11 significantly higher if they were to be recovered through rates by Aqua rather than
12 by EWT. I also expressed concern that if the acquisition of EWT by Aqua is
13 approved by the Commission, EWT customers' rates would include the recovery
14 of federal and state taxes as well as depreciation, which is currently not the case
15 for EWT customers (I&E Statement No. 1, pp. 6-7), thereby driving up EWT
16 customers' rates.

17 In direct testimony, I provided an example of the impact of the cost of
18 capital where Aqua estimated it will invest approximately \$17,000,000 in capital
19 projects over the next ten years to improve EWT's system. In that example, the
20 cost of capital for improvements to EWT's system over the next ten years would be
21 \$727,600 higher if it were performed by Aqua rather than by EWT. This was
22 primarily due to the fact that debt is the only source of capital for EWT compared to

1 Aqua which utilizes both common equity and debt resulting in a substantially higher
2 cost of capital. I also showed that the cost disparity becomes even greater when the
3 Aqua return is grossed up for the tax impact that is not attributable to a municipality.
4 When I applied the tax gross up factor from Aqua's most recent base rate case, it
5 increased the impact of \$17,000,000 of plant additions to \$1,782,501, which
6 increased the difference by \$1,257,201 (I&E Statement No. 1, pp. 7-8).

7 Additionally, I pointed out that municipalities such as EWT do not pay federal
8 and state income taxes unlike Aqua which does pay federal and state taxes as an
9 investor-owned utility. I noted that if EWT is acquired by Aqua, Aqua's federal and
10 state income taxes would then be recovered in rates from EWT's customers. Finally,
11 I stated that annual depreciation was also included in rates for investor-owned
12 utilities such as Aqua, but this is not the case for municipal owned utilities like EWT.
13 I concluded that if the Commission approves the acquisition, EWT customers' rates
14 would increase to cover state and federal income taxes as well as annual depreciation
15 in rates in a future base rate case filing (I&E Statement No. 1, pp. 8-9).

16 While I did not make a recommendation for the Commission to deny the
17 application for Aqua to acquire EWT's system, I noted that it was important to
18 remind all parties, including the Commission, of the potential impact of the
19 acquisition on EWT and existing Aqua customers' rates (I&E Statement No. 1, p.
20 9).

1 **Q. DID ANY COMPANY WITNESS RESPOND TO YOUR**
2 **RECOMMENDATION?**

3 A. Yes. Aqua witness William C. Packer responded to my recommendation (Aqua
4 Statement No. 1-R, pp. 7-8).

5
6 **Q. SUMMARIZE MR. PACKER'S RESPONSE REGARDING YOUR**
7 **CONCERNS OF THE POTENTIAL RATE IMPACT IMPLICATIONS FOR**
8 **EWT CUSTOMERS IF THE ACQUISITION WAS APPROVED BY THE**
9 **COMMISSION.**

10 A. Mr. Packer acknowledges there are cost of service differences between investor-
11 owned utilities and municipals. Mr. Packer disagrees with any inference that a
12 difference in the pre-tax cost of capital is a basis for denying the application for
13 Aqua to acquire EWT's system (Aqua Statement No. 1-R, pp. 7-8).

14
15 **Q. DID YOUR CONCERNS ABOUT THE FUTURE RATE IMPACTS TO EWT**
16 **CUSTOMERS IF THE ACQUISITION IS APPROVED BY THE**
17 **COMMISSION INFER THAT THE APPLICATION FOR AQUA TO**
18 **ACQUIRE EWT'S SYSTEM BE DENIED?**

19 A. No. As I stated in my direct testimony, I merely reminded all parties, including the
20 Commission, of the potential impact of the acquisition on EWT and Aqua
21 customers' rates (I&E Statement No. 1, p. 9, lines 7-10).

1 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

2 A. Yes.

**I&E Statement No. 2-SR
Witness: Ethan H. Cline**

**Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 507, 1102,
and 1329 of the Public Utility Code for its Acquisition of the Wastewater System
Assets of East Whiteland Township**

Docket No. A-2021-3026132

Surrebuttal Testimony

of

Ethan H. Cline

Bureau of Investigation and Enforcement

Concerning:

**Proposed Rate Freeze
Potential Future Rate Impacts
Cost of Service Study**

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1 **INTRODUCTION**

2 **Q. ARE YOU THE SAME ETHAN CLINE THAT SUBMITTED DIRECT**
3 **TESTIMONY IN THIS CASE ON MARCH 11, 2022?**

4 A. Yes. I submitted I&E Statement No. 2 on March 11, 2022.

5

6 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

7 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony
8 submitted by witnesses on behalf of Aqua Pennsylvania Wastewater, Inc. (“Aqua”
9 or “Company”) William C. Packer (Aqua St. No. 1-R).

10

11 **Q. DOES YOUR SURREBUTTAL TESTIMONY INCLUDE AN EXHIBIT?**

12 A. No.

13

14 **PROPOSED RATE FREEZE**

15 **Q. WHAT DID YOU RECOMMEND REGARDING THE RATE FREEZE**
16 **PROVISION INCLUDED IN THE ASSET PURCHASE AGREEMENT?**

17 A. I recommended that the three-year rate freeze be removed from the Application. I
18 also recommended that the record in this case indicate that the Company’s
19 estimated revenue requirement will be higher than indicated because the
20 Company’s analysis includes only one year of post-acquisition plant additions.
21 This recommendation is based upon the additional years between the closing and

1 the next base rate case that will likely include several years of plant additions that
2 will increase the revenue requirement of the East Whiteland system (I&E St. No 2,
3 p. 14).

4
5 **Q. WHY DID YOU RECOMMEND THE THREE-YEAR RATE FREEZE BE**
6 **REMOVED FROM THE APPLICATION?**

7 A. On page 7 of I&E Statement No. 2, I provided the following four reasons why I
8 recommended the three-year rate freeze provision be removed from the
9 application. First, based on Aqua's current base rate case filing schedule the
10 three-year rate freeze is either unnecessary or would constitute a Rate Stabilization
11 Plan. Second, the rate freeze provision adds no value to the Transaction. Third,
12 the parties failed to acknowledge that the Commission is the entity that makes the
13 final determination on whether and to what extent rates will increase regardless of
14 any rate freeze provision in the Asset Purchase Agreement. Fourth, a rate freeze
15 will cause 100% of the projected revenue deficiency, which is likely understated,
16 to be recovered from other Aqua customers.

17
18 **Q. DID THE COMPANY RESPOND TO YOUR RECOMMENDATION TO**
19 **REMOVE THE THREE-YEAR RATE FREEZE PROVISION?**

20 A. Yes. Aqua witness Packer disagreed with my recommendation to remove the
21 three-year rate freeze provision (Aqua St. No. 1-R, p. 10). However, Mr. Packer

1 focused his testimony on addressing my discussion regarding the possibility that
2 the rate freeze could constitute a Rate Stabilization Plan.

3
4 **Q. DID MR PACKER ADDRESS YOUR TESTIMONY THAT THE RATE**
5 **FREEZE PROVISION ADDS NO VALUE TO THE APPLICATION?**

6 A. No.

7
8 **Q. HOW DID MR. PACKER ADDRESS YOUR TESTIMONY THAT THE**
9 **RATE FREEZE COULD CONSTITUTE A RATE STABILIZATION**
10 **PLAN?**

11 A. Mr. Packer pointed to the Company's track record over the past twenty years of
12 filing base rate cases approximately every three years. This track record combined
13 with the Company's current base rate case with a procedural schedule that runs
14 through the month of May 2022 results in a likelihood that the East Whiteland
15 system customers would not see a rate increase prior to the expiration of the rate
16 freeze. Mr. Packer also indicated that any overlap could be dealt with via a
17 proposed effective date of new rates for East Whiteland customers being aligned
18 with the expiration of the rate freeze, thus avoiding any costs being spread over
19 current Aqua customers (Aqua St. No. 1-R, p. 9).

1 **Q. DO YOU AGREE THAT THERE IS A LIKELIHOOD THAT THE EAST**
2 **WHITELAND CUSTOMERS WILL NOT SEE A BASE RATE INCREASE**
3 **UNTIL AFTER THE END OF THE RATE FREEZE PERIOD?**

4 A. Yes. However, this likelihood merely supports my testimony that the rate freeze
5 provision is unnecessary, adds no value, and amounts to political theater to make
6 the pending acquisition more palatable to customers. Therefore, I continue to
7 recommend that the three-year rate freeze be removed.

8

9 **POTENTIAL FUTURE RATE IMPACT**

10 **Q. DID MR. PACKER ADDRESS YOUR TESTIMONY THAT THE**
11 **ESTIMATED RATE IMPACT IS UNDERSTATED?**

12 A. Yes. Mr. Packer disagreed with my testimony that the Company’s estimated rate
13 impact is understated. He referenced both increasing and decreasing factors that
14 could affect customers’ rates and that the Commission recognized in its Final
15 Supplemental Implementation Order on the implementation of Section 1329
16 (“FSIO”) (Docket No. M-2016-2543193 Final Supplemental Implementation
17 Order, p. 32-34, Order entered February 28, 2019) that the exact rate impact would
18 be impossible to precisely calculate.

1 **Q. DO YOU AGREE THAT THE COMMISSION'S FSIO RECOGNIZES THAT**
2 **THE EXACT INCREASE EXPERIENCED BY EAST WHITELAND**
3 **CUSTOMERS WOULD BE IMPOSSIBLE TO PRECISELY CALCULATE?**

4 A. Yes. It should be noted, however, that the section of the FSIO that Mr. Packer
5 referred to specifically discusses the customer notice and, on page 13 of I&E
6 Statement No. 2, I explain that I am not recommending Aqua alter its customer
7 notices. However, I do not agree that the FSIO prevents Aqua from acknowledging,
8 through the record, that the increase may be more than what customers initially
9 anticipated.

10

11 **Q. DID MR. PACKER AGREE WITH YOUR RECOMMENDATION TO**
12 **INDICATE IN THE RECORD THAT THE COMPANY'S ESTIMATED**
13 **REVENUE REQUIREMENT INCLUDES ONLY ONE YEAR OF POST**
14 **ACQUISITION PLANT ADDITIONS?**

15 A. No. It is Mr. Packer's opinion that this recommendation is unnecessary and should
16 be rejected (Aqua St. No. 1-R, p. 11).

17

18 **Q. DO YOU AGREE THAT YOUR RECOMMENDATION IS UNNECESSARY**
19 **AND SHOULD BE REJECTED?**

20 A. No. As I stated on page 14 of I&E Statement No. 2, my recommendation would
21 alert customers that the next increase in rates they experience may be more than
22 initially estimated by the Company. Section 1329 acquisitions instill a great deal of

1 uncertainty into customers of the acquired systems regarding when and how
2 substantial their next rate increases will be. It is in the public interest to provide
3 these customers with as much information regarding their potential rates as possible.
4 Therefore, I continue to recommend that the record in this case indicate that because
5 the Company’s estimated revenue requirement includes only one year of post-
6 acquisition plant additions and more time between the Closing and the next base rate
7 case would increase the revenue requirement of the East Whiteland system as a result
8 of those additional years of plant additions.

9
10 **COST OF SERVICE STUDY**

11 **Q. WHAT IS YOUR COST OF SERVICE STUDY RECOMMENDATION?**

12 A. I recommended that Aqua provide a separate Cost of Service Study (“COSS”) for
13 the East Whiteland system in its next rate case that separately identifies the plant
14 in service costs at the time the East Whiteland system was purchased, the cost of
15 any plant retirements, and the cost of any plant investments (I&E St. No. 2, p. 15).

16
17 **Q. HOW DID AQUA RESPOND TO YOUR RECOMMENDATION?**

18 A. Mr. Packer indicated on page 11 of Aqua Statement No. 1-R that the Company, in
19 its next base rate case that includes the East Whiteland system, will prepare a
20 separate COSS for the East Whiteland system using the same methodology it used
21 for other systems acquired through Section 1329 proceedings in its most recent
22 base rate case.

1 **Q. DOES MR. PACKER'S TESTIMONY SATISFY YOUR**
2 **RECOMMENDATION?**

3 A. Yes.

4

5 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

6 A. Yes.

**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 :

VERIFICATION OF CHRISTOPHER KELLER

I, **Christopher Keller**, on behalf of the Bureau of Investigation and Enforcement, hereby verify that **I&E Statement No. 1, I&E Exhibit No. 1, and I&E Statement No. 1-SR** were prepared by me or under my direct supervision and control.

Furthermore, the facts contained therein are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same if called to the stand at any evidentiary hearing held in this matter.

This Verification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Signed in New Cumberland, Pennsylvania, this 29th day of March, 2022.

/s/ Christopher Keller
Christopher Keller

**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 :

VERIFICATION OF ETHAN CLINE

I, **Ethan Cline**, on behalf of the Bureau of Investigation and Enforcement, hereby verify that **I&E Statement No. 2, I&E Exhibit No. 2** and **I&E Statement No. 2-SR** were prepared by me or under my direct supervision and control.

Furthermore, the facts contained therein are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same if called to the stand at any evidentiary hearing held in this matter.

This Verification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Signed in Harrisburg, Pennsylvania, this 30th day of March, 2022.

/s/ Ethan H. Cline

Ethan Cline

**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 :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Pre-Served Testimony, Exhibits and Verification Statements** dated April 20, 2022, in the manner and upon the persons listed below.

Served via Electronic Mail Only

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