



COMMONWEALTH OF PENNSYLVANIA

April 29, 2022

E-FILED

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

Re: Aqua Pennsylvania Wastewater, Inc. Section 1329 Application for the Acquisition of East Whiteland Township's Wastewater System Assets / Docket No. A-2021-3026132

Dear Secretary Chiavetta:

The Pennsylvania Public Utility Commission's Implementation Order at *Electronic Access to Pre-Served Testimony*, Docket No. M-2012-2331973, requires that all testimony furnished to the court reporter during a proceeding must subsequently be provided to the Secretary's Bureau.

As such, this letter will confirm that the Office of Small Business Advocate ("OSBA") has e-filed the Direct Testimony and Exhibit of Brian Kalcic, labeled OSBA Statement No. 1 and the Surrebuttal Testimony of Brian Kalcic, labeled OSBA Statement No. 1-S, on behalf of the OSBA, in the above-captioned proceeding.

All known parties were previously served with the aforementioned Testimony. If you have any questions, please contact me.

Sincerely,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Brian Kalcic
Parties of Record (**Cover Letter and Certificate of Service Only**)



COMMONWEALTH OF PENNSYLVANIA

March 11, 2022

Administrative Law Judge Marta Guhl
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107

**Re: Aqua Pennsylvania Wastewater, Inc. Section 1329 Application for the
Acquisition of East Whiteland Township's Wastewater System Assets / Docket
No. A-2021-3026132**

Dear Judge Guhl:

Enclosed please find the Direct Testimony and Exhibit of Brian Kalcic, labeled OSBA Statement No. 1, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

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

Sincerely,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)
Brian Kalcic
Parties of Record

OSBA STATEMENT NO. 1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of Aqua Pennsylvania Wastewater, Inc. pursuant :
to Sections 1102, 1329, 507 and 2102 of the Public Utility Code : Dk. No. A-2021-3026132
for Approval of its Acquisition of the Wastewater :
System Assets of East Whiteland Township :**

Direct Testimony and Exhibit of

BRIAN KALCIC

On Behalf of the

Pennsylvania Office of Small Business Advocate

Date Served: March 11, 2022

Date Submitted for the Record: March 30, 2022

Direct Testimony of Brian Kalcic

1 **Q. Please state your name and business address.**

2 A. Brian Kalcic, 7330 Dorset Avenue, St. Louis, Missouri 63130.

3

4 **Q. What is your occupation?**

5 A. I am an economist and consultant in the field of public utility regulation, and
6 principal of Excel Consulting. My qualifications are described in the Appendix to
7 this testimony.

8

9 **Q. On whose behalf are you testifying in this case?**

10 A. I am testifying on behalf of the Office of Small Business Advocate (“OSBA”),
11 which is representing the small business customers served by Aqua Pennsylvania
12 Wastewater, Inc. (“Aqua” or the “Company”).

13

14 **Q. What is the subject of your testimony?**

15 A. I will address certain rate provisions contained in Section 7.03 of the proposed
16 Asset Purchase Agreement (“APA”) by and between the Township of East
17 Whiteland, Chester County (“Whiteland” or the “Township”) and Aqua.

18

19 **Q. Please summarize your recommendations.**

20 A. As a condition for approval of the Proposed Transaction, I recommend that the
21 Commission:

22

- 1 • reject any base rate freeze for Whiteland customers that would
2 extend beyond the effective date of new rates in the Company’s first
3 base rate case following the Close of the transaction; or
4
- 5 • alternatively, direct Aqua to impute revenues to Whiteland
6 customers, as necessary, to make up for the revenue shortfall
7 associated with any rate increase otherwise applicable to Whiteland
8 in the Company’s first base rate case following the Close of the
9 transaction.
10

11 **Section 7.03 of the APA**
12

13 **Q. Mr. Kalcic, what does Section 7.03 of the APA address?**

14 A. Section 7.03 addresses the current and future wastewater rates applicable to
15 Township customers under the terms of the APA.

16

17 **Q. What are the key provisions of Section 7.03?**

18 A. The key provisions of Section 7.03 are as follows: **1)** there shall be no change in
19 the currently effective rates paid by Township customers upon the close of the
20 proposed transaction; **2)** Aqua shall not propose to implement a base rate increase
21 for Township customers “until after the third anniversary of the Closing Date” of
22 the proposed transaction; **3)** Aqua shall apply, at and after Closing, its then-existing
23 miscellaneous fees and charges, and rules and regulations for wastewater service as
24 set forth in Aqua’s tariff within the Whiteland service area; and **4)** Buyer shall
25 include the rate provisions in Section 7.03(a) in its requested PaPUC Governmental
26 Approval.
27

1 **Q. Does Aqua consider the APA’s provision that prohibits a rate increase for**
2 **Township customers until after the third anniversary of the Closing date of the**
3 **proposed transaction a rate stabilization plan, as defined in Section 1329(g), 66**
4 **Pa. C.S § 1329(g) of the Public Utility Code?**

5 A. No. On page 12 of Aqua Statement No. 1, Mr. Packer argues the rate commitment
6 in Section 7.03 of the APA does not constitute a rate stabilization plan since
7 “[t]here is no language in Aqua’s proposed tariff requesting that rates be held
8 constant or phased in over a period of time after the next rate case.”
9

10 **Q. Does the OSBA agree with Aqua that the APA’s rate commitment does not**
11 **constitute a rate stabilization plan?**

12 A. No. Counsel advises that whether Aqua’s rate commitment equates to a rate
13 stabilization plan is a legal question that will be addressed in briefs.
14

15 **Q. Has Aqua explained why it agreed not to propose to increase the Township’s**
16 **rates for a period of three years following the Closing of the proposed**
17 **transaction?**

18 A. Yes. In response to OSBA-I-1, Aqua states that “[it] believed providing a three
19 year rate freeze, which was an option in the Request For Bids response, would
20 make its bid competitive.”
21

22 **Q. When does Aqua expect the proposed transaction to close, if approved by the**
23 **Commission?**

1 A. Aqua expects the Commission to issue its decision in this matter at its July 14, 2022
2 public meeting, with the Closing to occur “soon after a final Commission
3 decision.”¹
4

5 **Q. Does Aqua currently have a base rate case pending before the Commission?**

6 A. Yes. Aqua filed for an increase in water and wastewater rates on August 20, 2021,
7 at Docket Nos. R-2021-3027385 and R-2021-3027386. The Commission is
8 expected to issue its decision in the Company’s rate case in May 2022.
9

10 **Q. How do the current rates paid by Township customers compare to those paid
11 by Aqua’s existing wastewater system customers?**

12 A. The Township’s wastewater rates are very much lower. As shown in Table 1
13 below, the current bill of a residential customer in Whiteland using, say, four
14 thousand gallons per month, ranges from \$33.33 to \$50.00 per month. The monthly
15 bill paid by residential wastewater customers located in the Company’s Rate Zone 1
16 service area, using the same four thousand gallons per month, is \$64.47 at present
17 rates. As such, the average monthly bill paid by residential customers in the
18 Township is presently 22.4% to 48.3% lower than Aqua’s Rate Zone 1 equivalent
19 residential bill.
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¹ See Aqua’s response to OSBA-I-2.

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Table 1

Monthly Wastewater Bill of Residential Customer, using 4,000 gallons,
Present Aqua Rate Zone 1 versus Whiteland Flat Rate Service

Description	Aqua Rate Zone 1	Town. District A&B	Town. District C	Town. District D	Town. District E
Customer/Service Chrg.	\$31.00	\$33.33	\$45.17	\$50.00	\$40.00
Usage @ \$7.60 / 1000g	<u>30.40</u>				
Subtotal	\$61.40	\$33.33	\$45.17	\$50.00	\$40.00
DSIC @ 5.0%	<u>3.07</u>	<u>n.a</u>	<u>n.a</u>	<u>n.a.</u>	<u>n.a.</u>
Total Bill	\$64.47	\$33.33	\$45.17	\$50.00	\$40.00

Source: Aqua & Whiteland current tariffs.

Q. How do the current rates paid by Township customers compare to the proposed rates applicable to Aqua’s Rate Zone 1 wastewater system customers in the Company’s pending base rate case?

A. As shown in Table 2 below, the proposed monthly bill to be paid by residential wastewater customers located in the Company’s Rate Zone 1 service area, using four thousand gallons per month, is \$77.49 at proposed rates. Accordingly, the average monthly bill paid by residential customers in the Township is currently 35.5% to 57.0% lower than Aqua’s proposed Rate Zone 1 equivalent residential bill.

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Table 2

Monthly Wastewater Bill of Residential Customer, using 4,000 gallons,
Proposed Aqua Rate Zone 1 versus Whiteland Flat Rate Service

Description	Aqua Rate Zone 1	Town. District A&B	Town. District C	Town. District D	Town. District E
Customer/Service Chrg. Usage @ \$9.598 /1000g	\$39.10 <u>38.39</u>	\$33.33	\$45.17	\$50.00	\$40.00
Subtotal	\$77.49	\$33.33	\$45.17	\$50.00	\$40.00
DSIC @ 0.0%	<u>0.00</u>	<u>n.a</u>	<u>n.a</u>	<u>n.a.</u>	<u>n.a.</u>
Total Bill	\$77.49	\$33.33	\$45.17	\$50.00	\$40.00

Source: Aqua proposed & Whiteland current tariffs.

Q. Could Aqua’s commitment to freeze the base rates for Whiteland customers for three years following the Closing date hold the Township’s rates constant for a period of time of time *beyond* the effective date of new rates that results from the Company’s first base rate case following the Closing of the proposed transaction?

A. Yes, depending on the timing of the Company’s next rate filing. For example, assuming that the Closing date of the proposed transaction were to be July 31, 2022, the proposed base rate freeze for Whiteland customers would remain in place until July 31, 2025. If Aqua were to file its next base rate case on or before October 30, 2024, the Township’s rate freeze would extend beyond the effective date of new rates in Aqua’s next rate proceeding.

1 **Q. Would it be appropriate to freeze the Township's rates for any period of time**
2 **beyond the effective date of new rates in the Company's next base rate**
3 **proceeding?**

4 A. No.

5

6 **Q. Why not?**

7 A. In the OSBA's view, *all* of the Company's base wastewater rates should be
8 evaluated in each of Aqua's base rate proceedings. To the extent that the average
9 rate paid in a given rate area, such as Whiteland, is less than the Company's system
10 average rate for wastewater service, wastewater rates in that rate area should be
11 subject to increase in a base rate proceeding. Moreover, all rate areas should
12 exhibit movement toward to the system average wastewater rate in each rate case
13 (i.e., toward cost of service), consistent with the Commission's long-standing policy
14 of implementing single tariff pricing.

15

16 **Q. In the context of Aqua's next base rate proceeding, what would be the**
17 **consequence of freezing the wastewater rates paid by a subset of customers**
18 **that are, at that time, paying less than the system average rate for wastewater**
19 **service?**

20 A. In that instance, such customers would not only continue to receive a subsidy from
21 Aqua's remaining wastewater service customers, their annual subsidy received from
22 general ratepayers would *increase* at the conclusion of the Company's next rate
23 case.

1

2 **Q. Should the Commission approve a rate freeze period for Whiteland customers**
3 **that extends beyond the effective date of new rates in the Company's next base**
4 **rate case?**

5 A. No. As a condition for approval of the proposed acquisition, the Commission
6 should reject any rate freeze for Whiteland customers that extends beyond the
7 effective date of new rates in the Company's first base rate case following the Close
8 of the transaction.

9

10 **Q. Do you have an alternative recommendation with respect to the proposed rate**
11 **freeze for Whiteland customers?**

12 A. Yes. As an alternative, the Commission should direct Aqua to impute revenues to
13 Whiteland customers, as necessary, to make up for the revenue shortfall associated
14 with any rate increase otherwise applicable to Whiteland in the Company's first
15 base rate case following the Close of the transaction. In that way, Aqua's
16 shareholders rather than general ratepayers would bear the cost associated with
17 Aqua's commitment to freeze Whiteland's rates.

18

19 **Q. Does this conclude your direct testimony?**

20 A. Yes.

EXHIBIT BK-1

REFERENCED INTERROGATORY RESPONSES

(Questions to Aqua)

OSBA-I-1

OSBA-I-2

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

APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. A-2021-3026132

OFFICE OF SMALL BUSINESS ADVOCATE

SET I INTERROGATORIES

OSBA-I-1 Reference Section 7.03.(a) of the Asset Purchase Agreement (APA) between East Whiteland Township and the Company. Please explain in detail why Aqua agreed not to propose to increase Seller's Base Rates until after the third anniversary of the Closing Date of the proposed transaction.

RESPONSE

The Company believed providing a three year rate freeze, which was an option in the Request For Bids response, would make its bid competitive.

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

APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. A-2021-3026132

OFFICE OF SMALL BUSINESS ADVOCATE

SET I INTERROGATORIES

OSBA-I-2 Please provide the expected Closing Date of the sale of East Whiteland Township's wastewater system assets to Aqua.

RESPONSE

Closing can be dependent on a number of factors, however, at this time, this proceeding is expected to be before the Commission for decision on the July 14, 2022 public meeting. Closing would be expected soon after a final Commission decision.

APPENDIX

APPENDIX

Qualifications of Brian Kalcic

Mr. Kalcic graduated from Benedictine University with a Bachelor of Arts degree in Economics in December 1974. In May 1977 he received a Master of Arts degree in Economics from Washington University, St. Louis. In addition, he completed all course requirements at Washington University for a Ph.D. in Economics.

From 1977 to 1982, Mr. Kalcic taught courses in economics at both Washington University and Webster University, including Microeconomic and Macroeconomic Theory, Labor Economics and Public Finance.

During 1980 and 1981, Mr. Kalcic was a consultant to the Equal Employment Opportunity Commission, St. Louis District Office. His responsibilities included data collection and organization, statistical analysis and trial testimony.

From 1982 to 1996, Mr. Kalcic was employed by the firm of Cook, Eisdorfer & Associates, Inc. During that time, he participated in the analysis of electric, gas and water utility rate case filings. His primary responsibilities included cost-of-service and economic analysis, model building, and statistical analysis.

In March 1996, Mr. Kalcic founded Excel Consulting, a consulting practice that offers business and regulatory analysis.

Mr. Kalcic has previously testified before the state regulatory commissions of Delaware, Indiana, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Texas, and also before the Bonneville Power Administration.


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania Wastewater, Inc. :
Pursuant to Sections 1102, 1329, 507 and 2102 of the : **Dk. No. A-2021-3026132**
Public Utility Code for Approval of its Acquisition of the :
Wastewater System Assets of East Whiteland Township :

VERIFICATION

I, Brian Kalcic, hereby state that the facts set forth in my Direct Testimony labeled OSBA Statement No. 1 are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: March 10, 2022



(Signature)

Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Aqua Pennsylvania Wastewater, Inc. Section :
1329 Application for the Acquisition of East :
Whiteland Township’s Wastewater System : **Docket No. A-2021-3026132**
Assets :
:

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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tniesen@tntlawfirm.com

Alexander R. Stahl, Regulatory Counsel
Aqua Pennsylvania Wastewater, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
ASTahl@aquaaamerica.com

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID # 312245

Dated: March 11, 2022



COMMONWEALTH OF PENNSYLVANIA

March 25, 2022

Administrative Law Judge Marta Guhl
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107

**Re: Aqua Pennsylvania Wastewater, Inc. Section 1329 Application for the
Acquisition of East Whiteland Township's Wastewater System Assets / Docket
No. A-2021-3026132**

Dear Judge Guhl:

Enclosed please find the Surrebuttal Testimony of Brian Kalcic, labeled OSBA Statement No. 1-S, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

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

Sincerely,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)
Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of Aqua Pennsylvania Wastewater, Inc. pursuant :
to Sections 1102, 1329, 507 and 2102 of the Public Utility Code : Dk. No. A-2021-3026132
for Approval of its Acquisition of the Wastewater :
System Assets of East Whiteland Township :**

Surrebuttal Testimony of

BRIAN KALCIC

On Behalf of the

Pennsylvania Office of Small Business Advocate

Date Served: March 25, 2022

Date Submitted for the Record: March 30, 2022

1 **Q. Please state your name and business address.**

2 A. Brian Kalcic, 7330 Dorset Avenue, St. Louis, Missouri 63130.

3

4 **Q. Have you previously submitted direct testimony in this proceeding?**

5 A. Yes.

6

7 **Q. What is the subject of your surrebuttal testimony?**

8 A. I will response to the rebuttal testimony of William C. Packer on behalf of the Company.

9

10 **Company Witness Packer**

11

12 **Q. On pages 3-4 of Aqua Statement No. 1-R, Mr. Packer argues that the Commission**
13 **should reject the OSBA's recommendation that it deny any rate freeze for East**
14 **Whiteland customers that extends beyond the effective date of new rates in Aqua's**
15 **next base rate case, as a condition for approval of the proposed acquisition. In**
16 **support of his position, Mr. Packer maintains that: 1) the OSBA's request is**
17 **speculative in nature, dependent upon future events and the timing of the**
18 **Company's next base rate case; and 2) the OSBA's request is unnecessary, as**
19 **demonstrated by the Company's treatment of the acquired Tobyhanna Sewer**
20 **System in Aqua's 2018 base rate case. Please respond to Mr. Packer's first point.**

21 A. With regard to the alleged speculative nature of the OSBA's request, Mr. Packer appears
22 to suggest that it is premature to discuss East Whiteland's future rates outside of the
23 context of the Company's next base rate proceeding, the timing of which is uncertain at

1 this time. I would normally agree – except for the fact that Aqua proposes to do just that
2 by including rate commitments to East Whiteland in Section 7.03 of the Asset Purchase
3 Agreement (APA) that would otherwise impact future East Whiteland rates outside of the
4 context of a base rate case.

5 More importantly, while critical of OSBA’s recommended condition as
6 “speculative,” Mr. Packer does not dismiss outright the possibility that the three-year rate
7 freeze contained in the APA could continue beyond the effective date of new rates in
8 Aqua’s first rate case after Closing. Nor, in this instance, does Mr. Packer even suggest
9 that such an outcome is unlikely. In short, absent a decision by the Company to extend
10 its current three-year rate case filing cycle, there is every possibility that the rate
11 commitment contained in Section 7.03 of the APA would freeze East Whiteland’s rates
12 beyond the effective date of new rates in Aqua’s first rate case after Closing.

13
14 **Q. Please respond to Mr. Packer’s second point that the OSBA’s recommended**
15 **condition is unnecessary.**

16 A. Mr. Packer claims that the OSBA’s request is unnecessary as demonstrated by the
17 Company’s rate treatment of the acquired Tobyhanna Sewer System in Aqua’s 2018 base
18 rate case. Mr. Packer described such rate treatment as follows:

19 [T]he Tobyhanna Sewer System acquired by the Company was included in
20 rate Zone 4, despite the fact that the asset purchase agreement also had a
21 rate freeze provision. The Company’s proposed tariff treated the existing
22 rates in effect through the duration of the rate freeze period as a special
23 charge. Once the expiration of the contractual rate freeze had elapsed,
24 those customers immediately became subject to Rate Zone 4 tariff rates.
25 Nonetheless, the Company’s [compliance] proof of revenue was calculated
26 at the full cost of service rate, not the frozen existing rate, thus no existing

1 customer was harmed or paid for the rate freeze. If the same situation
2 would occur for EWT, the Company would make a similar proposal for the
3 EWT system and its customers.
4

5 **Q. Do you agree that the rate treatment discussed in Mr. Packer's rebuttal**
6 **satisfactorily addresses the OSBA's rate freeze concerns in this matter?**

7 A. Yes, I do. In fact, I offered this exact remedy for resolving the OSBA's rate freeze
8 concerns as an alternative recommendation in my direct testimony.¹

9 As long as Aqua is willing to commit to addressing East Whiteland's rate freeze
10 in the same manner used for the acquired Tobyhanna Sewer System in the Company's
11 first base rate proceeding following the Close of the proposed transaction, the Company's
12 shareholders rather than general ratepayers will bear the costs associated with Aqua's
13 commitment to freeze Whiteland's rates.
14

15 **Q. Does this conclude your surrebuttal testimony?**

16 A. Yes.

¹ See OSBA Statement No. 1 at page 8.

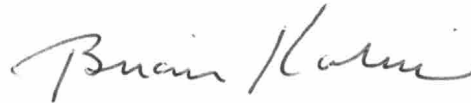
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania Wastewater, Inc. :
Pursuant to Sections 1102, 1329, 507 and 2102 of the : **Dk. No. A-2021-3026132**
Public Utility Code for Approval of its Acquisition of the :
Wastewater System Assets of East Whiteland Township :

VERIFICATION

I, Brian Kalcic, hereby state that the facts set forth in my Surrebuttal Testimony labeled OSBA Statement No. 1-S are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: March 24, 2022



(Signature)

Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Aqua Pennsylvania Wastewater, Inc. Section :
1329 Application for the Acquisition of East :
Whiteland Township's Wastewater System : **Docket No. A-2021-3026132**
Assets :
:
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CERTIFICATE OF SERVICE

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/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID # 312245

Dated: March 25, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Aqua Pennsylvania Wastewater, Inc. Section :
1329 Application for the Acquisition of East :
Whiteland Township's Wastewater System : **Docket No. A-2021-3026132**
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