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Michael W. Hassell

mhassell@postschell.com  
717-612-6029 Direct  
717-731-1985 Direct Fax  
File #: 182321

May 31, 2022

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: PA Public Utility Commission v. Aqua Pennsylvania, Inc.  
Docket No. R-2021-3027385  
PA Public Utility Commission v. Aqua Pennsylvania Wastewater, Inc.  
Docket No. R-2021-3027386**

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Dear Secretary Chiavetta:

Attached is the Petition for Reconsideration/Clarification of Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. of the Opinion and Order entered May 16, 2022 in the above-referenced proceeding.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Michael W. Hassell

MWH/cls  
Attachment

cc: Honorable Mary D. Long (w/att.)  
Office of Special Assistants (w/att.)  
Certificate of Service

**CERTIFICATE OF SERVICE**  
**(R-2021-3027385 and R-2021-3027386)**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), and the Prehearing Order dated October 19, 2021 (establishing the list of fully active parties in this proceeding).

**VIA E-MAIL ONLY**

Scott B. Granger, Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17105-3265  
[sgranger@pa.gov](mailto:sgranger@pa.gov)

Christy M. Appleby, Esquire  
Harrison W. Breitman, Esquire  
Erin L. Gannon, Esquire  
Lauren E. Guerra, Esquire  
Mackenzie C. Battle, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[hbreitman@paoca.org](mailto:hbreitman@paoca.org)  
[egannon@paoca.org](mailto:egannon@paoca.org)  
[lguerra@paoca.org](mailto:lguerra@paoca.org)  
[mbattle@paoca.org](mailto:mbattle@paoca.org)

Steven C. Gray, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
Forum Place, 1<sup>st</sup> Floor  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

John W. Sweet, Esquire  
Ria M. Pereira, Esquire  
Elizabeth R. Marx, Esquire  
Lauren Berman, Esquire  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[PULP@pautilitylawproject.org](mailto:PULP@pautilitylawproject.org)

Adeolu A. Bakare, Esquire  
Charis Mincavage, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[Abakare@mcneeslaw.com](mailto:Abakare@mcneeslaw.com)  
[Cmincavage@mcneeslaw.com](mailto:Cmincavage@mcneeslaw.com)  
*Counsel for Aqua Large Users Group*

George A. Bibikos, Esquire  
GA BIBIKOS LLC  
5901 Jonestown Road, Suite 6330  
Harrisburg, PA 17112  
[gbibikos@gabibikos.com](mailto:gbibikos@gabibikos.com)

Robert Rosenthal  
R.A. Rosenthal Inc.  
524 Strathmore Dr.  
Mechanicsburg, PA 17050  
[ask-rosey@comcast.net](mailto:ask-rosey@comcast.net)

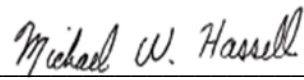
Brian Kalcic  
Excel Consulting  
225 S. Meramec Avenue, Suite 720-T  
St. Louis, MO 63105  
[excel.consulting@sbcglobal.net](mailto:excel.consulting@sbcglobal.net)

Richard J. Gage  
120 Treaty Drive  
Wayne, PA 19087  
[brittagage@aol.com](mailto:brittagage@aol.com)

Francine Weiner  
1903 2<sup>nd</sup> Street  
Langhorne, PA 19047  
[fhwhome@gmail.com](mailto:fhwhome@gmail.com)

John Day  
614 Runyon Avenue  
Piscataway, NJ 08854  
[john@johnday.us](mailto:john@johnday.us)

Date: May 31, 2022



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Michael W. Hassell

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al.* :  
: :  
v. : Docket Nos. R-2021-3027385, *et al.*  
: :  
Aqua Pennsylvania, Inc. :

Pennsylvania Public Utility Commission, *et al.* :  
: :  
v. : Docket Nos. R-2021-3027386, *et al.*  
: :  
Aqua Pennsylvania Wastewater, Inc. :

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**PETITION FOR RECONSIDERATION/CLARIFICATION OF  
AQUA PENNSYLVANIA, INC. AND AQUA PENNSYLVANIA WASTEWATER, INC.  
OF THE OPINION AND ORDER ENTERED MAY 16, 2022**

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**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. (collectively, “Aqua PA,” “AP” or the “Company”), by its counsel, hereby petitions the Pennsylvania Public Utility Commission (“Commission”), pursuant to 52 Pa. Code § 5.572, to reconsider/clarify its Opinion and Order entered on May 16, 2022, in the above-captioned dockets (the “*Aqua 2021 Rate Case Order*”), which approved the implementation of a new, comprehensive Universal Service Program (“USP”), denied the Company’s proposal to recover the costs of the proposed USP through a proposed reconcilable Universal Service Rider (“USR”), and ordered the Company to “continue to recover its low-income program costs through base rates.” *Aqua 2021 Rate Case Order* at 319. While the Company believes that its proposal was in the best interest of customers, it is not requesting reconsideration of that decision here. Rather, because the Commission approved the implementation of the proposed USP and ordered the Company to recover the costs of this program

through base rates in the *Aqua 2021 Rate Case Order*, the Company is appropriately including those costs of the program. In reviewing the *Aqua 2021 Rate Case Order*, the levels of costs associated with this new USP are not specifically referenced to be included in base rates. Therefore, out an abundance of caution Aqua PA respectfully requests that the Commission clarify the *Aqua 2021 Rate Case Order*, and revise the order to allow the Company to allocate and include \$7,396,315 in costs associated with the approved USP in the design of its approved base rates.<sup>1</sup> To be clear, this is a rate design and cost allocation issue. It is to be emphasized that this requested clarification **will not result in a change** to the water and wastewater increase of \$69,251,170 authorized by the *Aqua 2021 Rate Case Order*, because low-income customers who participate in the USP will pay discounted rates and receive arrearage forgiveness in accordance with the USP approved by the Commission.

In support of this Petition for Reconsideration/Clarification (“Petition”), Aqua PA represents as follows:

**I. BACKGROUND AND EXPLANATION OF PROPOSED CLARIFICATIONS/REVISIONS TO ORDER**

1. This proceeding was initiated on August 20, 2021, when Aqua PA filed Tariff Water – Pa. P.U.C. No. 3 (“Tariff Water No. 3”) and Tariff Sewer – Pa. P.U.C. No. 3 (“Tariff Sewer No. 3”) to become effective for service rendered on or after October 19, 2021. Therein, the Company proposed changes to Aqua PA’s base water rates designed to produce an increase in water revenues of approximately \$86.118 million and changes to Aqua PA’s base wastewater rates designed to produce an increase in wastewater revenues of approximately \$11.566 million, both

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<sup>1</sup> As reflected in the Compliance Filings dated May 23, 2022, the costs associated with the approved USP for water customers is \$6,668,038 (*see* Exhibit 5-A (Compliance), page 7, Water Discount to Residential), and the costs associated with the approved USP for wastewater customers is \$708,227 (*see* Exhibit 5-B (Compliance), page 13). The costs reflected in the Compliance Filings are based upon the Company’s cost and participation level projections for Year 2 of the approved USP.

based upon data for a Fully Projected Future Test Year (“FPFTY”) ending March 31, 2023 (“2021 Base Rate Case”). The filing was made in compliance with the Commission’s regulations and contained all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase.

2. As a part of its filing, Aqua PA proposed the implementation of a new, comprehensive USP, which included the implementation of a robust Customer Assistance Program (“CAP”) that added tiered bill discount benefits, Arrearage Forgiveness, and an Emergency Repair Program, to the benefits already afforded under its existing Helping Hand program. The proposed USP will replace the existing Helping Hand program.

3. Aqua PA proposed this new, comprehensive USP consistent with certain commitments made as a part of the Commission’s approval of the acquisition of Peoples Natural Gas Company LLC and Peoples Gas Company LLC by Essential Utilities, Inc., *f/k/a* Aqua America, Inc.<sup>2</sup> Specifically, in the settlement agreement approved by the Commission in the *Aqua-Peoples Acquisition Order*,<sup>3</sup> it was agreed that:

108. Aqua PA will include in the Helping Hand collaborative agreed to in its recent rate case settlement at Docket No. R-2018-3003558, discussion of the development of a comprehensive universal service and conservation program that will be proposed by Aqua PA. The items to be evaluated for inclusion in Aqua PA’s proposal include: (1) a bill payment/customer assistance program; (2) a hardship fund; (3) a water conservation program; (4) a low income service repair line and replacement program; and (5) a comparable funding mechanism that exists for electric and gas utilities in Pennsylvania. Aqua PA will submit a rate recoverable universal service proposal in Aqua PA’s next base rate case that

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<sup>2</sup> *Joint Application of Aqua America, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC and Peoples Gas Company LLC for All of the Authority and the Necessary Certificates of Public Convenience to Approve a Change in Control of Peoples Natural Gas Company LLC and Peoples Gas Company LLC by Way of the Purchase of All of LDC Funding, LLC’s Membership Interests by Aqua America, Inc.*, Docket Nos. A-2018-3006061, A-2018-3006062 and A-2018-3006063 (Order entered Jan. 24, 2020) (“*Aqua-Peoples Acquisition Order*”).

<sup>3</sup> Docket Nos. A-2018-3006061, A-2018-3006062 and A-2018-3006063 (Joint Petition for Approval of Nonunanimous, Complete Settlement Among Most Parties dated June 26, 2019) (“*Aqua-Peoples Settlement*”).

considers the best practices learned from the Peoples Companies and through conversations from the Helping Hand collaborative.

*See Aqua-Peoples Settlement* at ¶ 108.<sup>4</sup>

4. Aqua PA further proposed to recover the costs of this new, comprehensive USP through a reconcilable USR. AP St. 10 at 9. As such, the recovery of the costs of the USP were not reflected in the design of water or wastewater base rates.

5. The Office of Consumer Advocate (“OCA”) submitted testimony that addressed the proposed USP. Among other things, the OCA proposed that the costs of the new, comprehensive USP be recovered through Aqua PA’s base rates, rather than the proposed reconcilable USR. OCA St. 5 at 46. However, OCA did not propose any adjustments to the Company’s claimed cost of service and revenue requirement associated with the USP. OCA St. 1 at 38-39. Instead, OCA concluded that its “recommendations concerning the expansion of customer bill discounts and changes to Aqua’s proposed Universal Service Programs relate to prospective rate design for Aqua’s water and wastewater utility operations.” OCA St. 1 at 39 (emphasis added).

6. Aqua PA opposed the OCA’s recommendations. *See* AP St. 10-R at 12-13.

7. On February 18, 2022, Administrative Law Judge Mary D. Long (the “ALJ”) issued a Recommended Decision (the “RD”) in this proceeding. Therein, the ALJ approved the Company’s proposed new, comprehensive USP. RD at 113. In addition, the ALJ approved the Company’s proposed USR and recommended that the Commission authorize Aqua PA to recover the costs of its new USP through the USR. RD at 109.

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<sup>4</sup> Furthermore, public utilities are authorized under the Code and the Commission’s regulations to develop and implement a USP. *See generally* 66 Pa.C.S. §§ 1401-1418; *see also* 52 Pa. Code § 69.265.

8. The *Aqua 2021 Rate Case Order* adopts the RD's recommendation that the Company's proposed new, comprehensive USP be approved without modification. RD at 330-333. However, the Commission reversed the RD's recommendation regarding the USR, and instead required that "the Company continue to recover its low-income program costs through base rates." *Aqua 2021 Rate Case Order* at 319 (emphasis added).

9. Neither the RD nor the *Aqua 2021 Rate Case Order* elaborate on the level of projected costs associated with the new, approved USP that Aqua PA is permitted to recover through its base rates.

10. On May 23, 2022, Aqua PA submitted Compliance Filings associated with both Tariff Water No. 3 and Tariff Sewer No. 3, consistent with the *Aqua 2021 Rate Case Order*. The Compliance Filings respectively included Exhibits 5-A (Compliance) and 5-B (Compliance), which present a summary of rates by schedule and detailed proof of revenues associated with the water and wastewater base rates approved by the Commission. The Company reflected the costs of the approved USP for water customers on page 7 of Exhibit 5-A (Compliance) as a Water Discount to Residential customers of \$6,688,038. Similarly, the Company reflected the costs of the approved USP for wastewater customers on page 13 of Exhibit 5-B (Compliance), totaling \$708,227.

**II. THE COMMISSION SHOULD CLARIFY THE AQUA 2021 RATE CASE ORDER TO SPECIFY THE LEVEL OF COSTS OF THE NEW, APPROVED USP THAT AQUA PA IS PERMITTED TO RECOVER THROUGH BASE RATES**

11. The Commission's standards for granting reconsideration following final orders are set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982):

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania



Railroad Company case, wherein it was said that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them....” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

12. This Petition meets the *Duick* standards because it raises new arguments regarding the Commission’s approval of the new, comprehensive USP and the level of costs associated with the new USP that Aqua PA is authorized to include in its base rates, which have not been addressed by the Commission.

13. As noted above, the *Aqua 2021 Rate Case Order* approves Aqua PA’s proposed new, comprehensive USP. However, (1) it requires that “the Company continue to recover its low-income program costs through base rates,” *Aqua 2021 Rate Case Order* at 319 (emphasis added), and (2) does not establish what level of costs associated with the new USP that Aqua PA is permitted to recover through base rates. Each of these issues require clarification.

14. First, the Commission should clarify its requirement that “the Company continue to recover its low-income program costs through base rates” because the *Aqua 2021 Rate Case Order* approves a new, comprehensive USP that replaces Aqua PA’s existing Helping Hand program.

15. None of the costs of the new benefits and programs included in the approved USP are currently reflected in the design of base rates; only the limited administrative costs of its existing Helping Hand program are included in base rates.

16. It is unclear how the Company should “continue to recover its low-income program costs” as required by the *Aqua 2021 Rate Case Order*, where Aqua PA’s new, comprehensive USP, and the new costs associated with it, will be incremental to its existing program and costs.

17. Therefore, the Company requests that the Commission revise the *Aqua 2021 Rate Case Order* to clarify that the Company should be permitted to recover the projected costs of the new, Commission-approved USP through the design of base rates.

18. Second, the *Aqua 2021 Rate Case Order* does not include a finding or determination regarding the level of projected costs that Aqua PA is permitted to recover in its design of base rates. Similarly, the RD contains no finding of facts regarding the projected costs of the new USP that are permitted to be recovered.<sup>5</sup>

19. Without such a finding, it may be unclear what level of costs Aqua PA is permitted to include in rates. The USP approved in the *Aqua 2021 Rate Case Order* is new, and has new costs that have not previously been reflected in rates charged to customers.

20. Therefore, the Company requests that the Commission revise the *Aqua 2021 Rate Case Order* to clarify that the Company should be permitted to recover \$7,396,315 in projected costs associated with the new, Commission-approved USP through the design of the base rates approved in this proceeding.<sup>6</sup>

21. Aqua PA further notes that it submitted Compliance Filings associated with both Tariff Water No. 3 and Tariff Sewer No. 3 on May 23, 2022, consistent with the *Aqua 2021 Rate Case Order*.

22. With respect to the Compliance Filing associated with Tariff Water No. 3, the Company reflected the costs of the approved USP for water customers on page 7 of Exhibit 5-A (Compliance) as a Water Discount to Residential customers of \$6,688,038.

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<sup>5</sup> As noted above, the RD recommended approval of the proposed reconcilable USR.

<sup>6</sup> See footnote 1.

23. With respect to the Compliance Filing associated with Tariff Sewer No. 3, the Company reflected the costs of the approved USP for wastewater customers on page 13 of Exhibit 5-B (Compliance), totaling \$708,227.

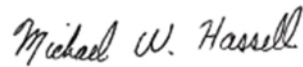
24. Finally, consistent with the testimony of the OCA, reflecting the costs of the new USP in base rates is a matter of rate design, and is not a matter of adjusting the Company's approved revenue requirement. See OCA St. 1 at 39. Thus, the clarifications requested above will not result in a change to the water and wastewater increase of \$69,251,170 authorized by the *Aqua 2021 Rate Case Order*. Low-income customers who participate in the USP will pay discounted rates and receive arrearage forgiveness in accordance with the USP approved by the Commission. The projected costs of the discounts and arrearage forgiveness are reflected as discounts to the provision of water and wastewater service to residential customers in each of the Compliance Filings.

25. For all of these reasons, Aqua PA submits that it has satisfied the *Duick* standard, and that the clarifications and revisions described above are necessary to ensure the costs associated with the new USP that the Company includes in the design of its approved base rates are compliant with the *Aqua 2021 Rate Case Order*.

**III. CONCLUSION**

WHEREFORE, Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. respectfully request that the Commission reconsider/clarify its Opinion and Order of May 16, 2022, entered at Docket Nos. R-2021-3027385 and R-2021-3027386 et al., and revise such Opinion and Order to provide that Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. are permitted to include \$7,396,315 of costs associated with the approved Universal Service Program in the design of base rates approved by the Opinion and Order entered May 16, 2022, to be effective May 19, 2022.

Respectfully submitted,



Kimberly A. Joyce, Esq. (ID # 86605)  
Mary McFall Hopper, Esq. (ID # 60118)  
Alexander R. Stahl, Esq. (ID # 317012)  
762 W. Lancaster Ave  
Bryn Mawr, PA 19010  
Phone: 610-645-1077  
Phone: 610-645-1170  
Phone: 610-645-1130  
E-mail: kajoyce@essential.co  
E-mail: mmhopper@aquaamerica.com  
E-mail: astahl@aquaamerica.com

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Michael W. Hassell, Esq. (ID # 34851)  
Garrett P. Lent, Esq. (ID # 321566)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101  
Phone: 717-731-1970  
E-mail: mhassell@postschell.com  
E-mail: glent@postschell.com

Dated: May 31, 2022

*Counsel for Aqua Pennsylvania, Inc., and Aqua  
Pennsylvania Wastewater, Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**VERIFICATION**

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I, Erin M. Feeney, being Manager of Rates for Aqua Pennsylvania, Inc. (“AP”), hereby state that facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, 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: May 31, 2022

  
\_\_\_\_\_  
Erin M. Feeney