

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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May 31, 2022

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

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

Dear Secretary Chiavetta:

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

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon  
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cc: The Honorable Mary D. Long (**email only**)  
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Certificate of Service

\*329704

CERTIFICATE OF SERVICE

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

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

Dated this 31<sup>st</sup> day of May 2022.

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Dated: May 31, 2022  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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OFFICE OF CONSUMER ADVOCATE'S  
PETITION FOR CLARIFICATION

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The Office of Consumer Advocate (OCA) hereby submits this Petition pursuant to Sections 5.572 and 5.41 of the Public Utility Commission's regulations. *See* 52 Pa. Code §§ 5.572, 5.41.

I. INTRODUCTION

On May 16, 2022, the Pennsylvania Public Utility Commission (PUC or Commission) entered its Opinion and Order in these proceedings. In its Order, the Commission ruled on numerous issues raised by the OCA and other parties regarding the proposed base rate increases filed by Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. (Aqua or Company).

The OCA seeks clarification on the recovery of costs of the customer assistance programs (CAP) approved in this proceeding. The OCA seeks to ensure that the costs are recovered from customers consistent with the determinations made by the Commission in its Order. In support thereof, the OCA asserts the following:

1. As set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 PaPUC 553 (1985), the standards for granting a petition for reconsideration are as follows:

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 stated 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.** Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

56 PaPUC at 559 (quoting *Pennsylvania R.R. Co. v. Pa. PUC*, 118 Pa. Super. 380, 179 A. 850 (1935) (emphasis added).

2. In this Petition, the OCA raises points not previously heard or considered and which the Commission may have overlooked or not addressed. The OCA seeks clarification of the recovery of low-income CAP costs through customer (fixed) and volumetric charges, consistent with its disposition of the litigated issues in these base rate proceedings. As discussed below, the costs should be applied to volumetric charges consistent with Aqua’s initial filing. The standard for clarification before this Commission is clearly met in this proceeding.

## II. REQUEST FOR CLARIFICATION

3. The Commission reversed the ALJ’s recommendation and rejected Aqua’s proposal to recover the costs of its CAP through a reconcilable surcharge. Order at 311-17, 319-320. The Commission agreed with the OCA that Aqua should recover its CAP costs through base rates. *Id.* at 319. Specifically, the Commission stated that Aqua should “continue” to recover the costs through base rates. *Id.*

4. To be clear, the costs of the CAP approved in these proceedings are largely new costs for new programs (CAP discounts, CAP administration by a third party and an Emergency Repair Program). Aqua St. 10 at 9. The low-income programs that Aqua previously had in place (hardship grant, arrearage reduction and conservation support) were funded entirely by contributions and no costs were included in base rates. Aqua St. 10 at 4-5; *Pa. PUC v. Aqua*

*Pennsylvania Wastewater, Inc.*, R-2018-3003558, Order at 21 (May 9, 2019) (2018 Rate Order). Further, existing base rates were established pursuant to a black box Settlement approved by the Commission. *Id.* at 9, 19, 21-24, 60. Thus, Aqua has no history of recovering CAP costs through fixed monthly charges.

5. In its filing in this rate proceeding, Aqua proposed to recover the costs of its CAP through a surcharge applied to residential customers' volumetric water rates and to total sewer bills. Aqua Exh. Vol. 1 at 175 (Tariff Water Pa. PUC No. 3 at 34), 255 (Tariff Sewer Pa. PUC No. 3 at 21).

6. In its compliance filing submitted on May 23, 2022, however, Aqua proposes to recover the costs of its wastewater CAP exclusively through fixed monthly customer charges.<sup>1</sup> Aqua calculates its proposed residential wastewater customer charges for all meter sizes by increasing the comparable non-residential customer charges by 1.796% to recover the revenue requirement associated with its "CAP" or "USP" (universal service program costs). Compliance Filing (Wastewater), Exh. 5-B at 13.

7. Aqua does not propose the same treatment for recovery of water CAP costs in its compliance filing. Instead Aqua developed the residential revenue requirement by subtracting the CAP costs (Discount to Residential) from Aqua's total proposed residential revenues and then scaled back the allocation to reflect the revenue requirement allowed by the Commission. Compliance Filing (Water), Exh. 5-A at 7. While there is no specific allocation to fixed versus volumetric charges, because Aqua's customer cost analysis used to develop its proposed water customer charge did not include costs related to the CAP (Aqua Exh. 5-A at A-37-46) and those proposed customer charges were scaled back (Order at 271-72), the associated revenue requirement is presumptively allocated to volumetric rates.

8. Aqua's proposal, in its compliance filing, to recover wastewater CAP costs exclusively from customer charges rather than volumetric charges is not supported by its past

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<sup>1</sup> Pursuant to 52 Pa. Code § 5.592(c), the OCA will file an Exception to Aqua's Wastewater Compliance Filing.

practice – as stated above, Aqua is not recovering any costs related to its existing low-income programs in base rates. *2018 Rate Order* at 21. Aqua’s proposal is not consistent with its proposal in this proceeding (in the form of a surcharge) to recover those costs from volumetric rates (water) or both fixed and volumetric rates (wastewater). Aqua Exh. Vol. 1 at 175 (Tariff Water Pa. PUC No. 3 at 34), 255 (Tariff Sewer Pa. PUC No. 3 at 21). The Commission has not approved recovery through fixed customer charges for other water utilities. Further, Aqua’s proposal is not consistent with how Aqua’s natural gas affiliates recover CAP costs. Peoples Natural Gas Co. and Peoples Gas Co. apply CAP surcharge to volumetric rates.<sup>2</sup> *See* Peoples Natural Gas Co. Supp. No. 20 to Gas-Pa PUC No. 47 at 3-4; Peoples Gas Co. Supp. No. 84 to Gas-Pa PUC No. 8 at 12-13, 95.

9. There is additional reason to reject Aqua’s proposed allocation. Aqua’s compliance filing indicates that residential customer charges will increase by 52.74% in its main wastewater division **without** recovering CAP costs (\$31.00 to \$47.35 instead of \$48.20). Compliance Filing (Wastewater), Exh. 5-B at 1, 7. Aqua’s proposal to recover all of its CAP costs exclusively from fixed customer charges exacerbates this considerable increase. Further it is inconsistent with the Commission’s discussion on pages 270 to 272 of its Order, where it accepted the I&E rate design because it maintained or decreased the portion of customer bills attributable to customer charges, thus “preserving adequate opportunity for customer savings due to conservation efforts.”

10. In summary, the issue of whether the costs of Aqua’s low-income CAP would be recovered through customer or volumetric charges was not litigated by the parties or addressed by the Commission. The OCA requests that the Commission clarify its Order to specify that these costs should not be recovered through residential customer charges, for the reasons discussed above.

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<sup>2</sup> The OCA recognizes that the People companies recover their CAP costs through a reconcilable surcharge but the surcharge is applied to volumetric rates, specifically delivery charges, and not to customer charges.

11. The OCA does not object to Aqua's proposal to recover its CAP costs through fixed (flat) rates for its unmetered wastewater customers.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, the OCA respectfully requests that the Commission clarify its Opinion and Order in the above-captioned proceeding as requested above.

Respectfully submitted,

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Dated: May 31, 2022