

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105-3265**

Public Meeting held October 27, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Application of Aqua Pennsylvania Wastewater, Inc.
for approval of the right to offer, render, furnish and
supply wastewater service to the public in an
additional portion of Mount Joy Township, Adams
County, Pennsylvania

Docket Number
A-2022-3031502

ORDER

BY THE COMMISSION:

By the application (Application) filed on March 21, 2022, Aqua Pennsylvania Wastewater, Inc. (APW), Utility Code 230240, 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania 19010, seeks a certificate of public convenience pursuant to Section 1102(a)(1) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a)(1), evidencing Pennsylvania Public Utility Commission (Commission) approval of APW's right to offer, render, furnish and supply wastewater service to the public in an additional portion of Mount Joy Township, Adams County, Pennsylvania.

I. AFFECTED ENTITIES AND BACKGROUND

APW is a regulated public utility company, duly organized and existing under the laws of the Commonwealth of Pennsylvania. APW furnishes wastewater service to approximately 56,000 customer accounts throughout various certificated territories in Pennsylvania, including portions of Mount Joy Township, Adams County. APW is a

subsidiary of Essential Utilities, Inc. and an affiliate of Aqua Pennsylvania, Inc. (Aqua), Utility Code 210104. Aqua concurrently filed an application with the Commission for approval to provide water service within the same requested territory.¹

The Links of Gettysburg Land Company Inc. (Builder) is a Pennsylvania business corporation with a mailing address of 601 Mason Dixon Road, Gettysburg, Pennsylvania 17325. The Builder is requesting that APW provide public wastewater service for a 100-lot subdivision development, called the Wade Run Community (Wade Run), an extension of The Links at Gettysburg development (The Links).² The Application noted that Wade Run will include 99 residential units and a 35-room hotel with an event facility. A copy of the Builder's letter requesting wastewater service, dated February 11, 2022, was included in the Application as Attachment C.

APW submitted proofs of publication and service to the appropriate entities. Notice of the Application was published in the Pennsylvania Bulletin, 52 Pa.B. 2088, on Saturday, April 2, 2022. The protest period ended April 18, 2022. No protests were filed, and no hearings were held.

II. LOCATION AND DESCRIPTION OF PROPOSED TERRITORY

The requested territory is situated in the southwest portion of Mount Joy Township, Adams County, along the west side of Taneytown Road (State Route 134), about 0.25 miles north of Taneytown Road's intersection with Mason Dixon Road. The western boundary of the requested territory abuts APW's certificated territory encompassing The Links and includes approximately 46 acres of land. A map of the requested service territory and a written description of the requested territory's

¹ See *Application of Aqua Pennsylvania, Inc., for approval of the right to offer, render, furnish and supply water service to the public in an additional portion of Mount Joy Township, Adams County, Pennsylvania*, at Docket No. A-2022-3031498

² APW was certificated to provide wastewater service in the area encompassing the Links at Gettysburg development at Docket Nos. A-230240F0020 and A-230240F0029.

boundaries by metes and bounds were included in the Application as Attachments A and B, respectively.

III. DESCRIPTION OF FACILITIES FURNISHING SERVICE

According to the Application, APW and the Builder will enter into a builder's extension agreement to fund and install a collection system and conveyance mains consisting of approximately 4,844 linear feet of eight-inch diameter SDR-26 plastic gravity main, 29 manholes, and 100 six-inch diameter SDR-26 plastic service laterals (collectively, the Extension Project). The Extension Project will convey flows to an existing eight-inch diameter SDR-35 gravity main that was previously stubbed out from the collection system serving the Garrison Falls community of The Links through an existing pump station, and then via force main to APW's Links at Gettysburg wastewater treatment plant (WWTP).³ In supplemental information filed with the Commission, APW indicated that no upgrades to the existing pump station are required to convey the additional flows generated within Wade Run. A plan showing the proposed main extension was provided in the Application as Attachment F, and a copy of APW's standard builder's extension agreement was provided as the Application's Attachment G. APW's existing Roaring Creek Division will operate the collection system within the requested territory.

The Link's WWTP is permitted to treat 60,000 gallons per day (GPD) with an organic load capacity of 125 pounds per day and a maximum treated effluent discharge of 110,000 GPD to the Rock Creek. In the Application, APW indicated that in 2020, the 215 existing connections within The Links produced an average annual flow of 29,100 GPD with an annual organic loading of 48 pounds per day and a three-month average

³ See Application of Little Washington Wastewater Company d/b/a Suburban Wastewater Company for approval of (1) the acquisition by Little Washington Wastewater Company d/b/a Suburban Wastewater Company of the Wastewater system assets of The Links at Gettysburg Land Company, L.L.C. and (2) the right of Little Washington Wastewater Company d/b/a Suburban Wastewater Company to begin to offer, render, furnish, and supply wastewater service to the public in a portion of Mount Joy Township, Adams County at Docket No. A-230240F0020. Order Entered February 23, 2004.

peak flow of 31,800 GPD. Wade Run is projected to generate 26,290 GPD at build out. In the Application, APW indicated that with the addition of Wade Run, The Links WWTP would reach or exceed 80% of its hydraulic capacity. However, under the terms of APW's asset purchase agreement with the Builder, dated October 27, 2003, the Builder is required to design, fund, and construct an expansion of The Links WWTP by adding additional treatment trains to increase treatment capacity to meet new demands.⁴ In the Application, APW indicated that the Builder has retained an engineer to complete The Links WWTP expansion design and submit a Water Quality Management (WQM) Part II Application to the Pennsylvania Department of Environmental Protection (DEP). A copy of APW's standard builder's wastewater treatment facility expansion agreement was provided as the Application's Attachment I. APW averred that because of the proposed expansion in 2022, no hydraulic or organic overloading is projected at The Links WWTP due to the additional flow generated by the Wade Run connections.

A copy of APW's 2020 Chapter 94 Municipal Wasteload Management Report (2020 Chapter 94 Report) for The Links WWTP, filed with DEP, was provided as the Application's Attachment K. The 2020 Chapter 94 Report's Attachment D – Corrective Action Plan, indicated that an upgrade to The Links WWTP is anticipated in 2023 and that the upgrade will increase hydraulic capacity to 0.115 million gallons per day (MGD) and organic capacity to 240 pounds per day. In supplemental information filed with the Commission, APW provided a copy of the 2021 Chapter 94 Report for The Links WWTP, which indicated that an upgrade design and WQM Part II Application is being prepared and that the upgraded WWTP is anticipated to go online by January 2024. The 2021 Chapter 94 report also indicated that The Links WWTP is not projected to be hydraulically or organically overloaded in the next five years.

⁴ The 2003 asset purchase agreement was filed with the Commission as Attachment B of the application filed by APW's predecessor to acquire The Links wastewater system assets, *See Application of Little Washington Wastewater Company d/b/a Suburban Wastewater Company for approval of the acquisition of The Links at Gettysburg Land Company, L.L.C.*, at Docket No. A-230240F0020.

Separately, APW identified 73 additional connections within The Links that are fully approved but not yet connected to the system and two areas to be developed in the future. The additional areas of future development were identified as Calvary Chase, with 26 proposed residential units, and Powder Creek, with 53 proposed residential units. In supplemental information filed with the Commission, APW provided a Revised Attachment H, which identified the estimated timeline and equivalent dwelling units (EDUs) for the remaining and planned connections to The Link's WWTP.

IV. ADDITIONAL CAPITAL REQUIREMENTS

In the Application, APW indicated that it will not obtain financing to provide wastewater service to Wade Run and that all costs will be borne by the Builder under the terms of its standard builder's extension agreement. The Builder will fund the entire cost of the Extension Project, estimated to be \$1,007,000, and will contribute the assets to APW upon completion. In supplemental information filed with the Commission, APW indicated that the Builder will also provide APW an estimated administration fee of \$22,806 and an estimated value-added fee of \$17,921, for a total project cost to the Builder of \$1,047,727.

As noted above, APW indicated that the Builder intends to fund the expansion of The Links WWTP in accordance with the October 27, 2003, asset purchase agreement. APW also averred that existing customers in The Links will not fund or subsidize any portion of The Links WWTP expansion. However, the October 27, 2003, asset purchase agreement also indicated that prior to the start of construction and financing of the second train (i.e., the treatment plant expansion), the parties will discuss alternative arrangements for the construction and financing of the second train. To ensure expansion costs are not passed on to either APW's existing customers or future customers purchasing lots within the requested service territory, we will require APW to file with the Commission an executed copy of any form of facility expansion agreement it may enter to increase the

treatment capacity of The Links WWTP.⁵ Additionally, should APW file a rate case that proposes to recover the cost of any upgrades or additions to The Links WWTP for the purpose of increasing the hydraulic or organic treatment capacity of The Links WWTP, APW will be required to provide testimony which identifies this transaction, provides a detailed breakdown of the associated costs, and identifies the source of funding for the subject upgrades or additions.⁶

In supplemental information filed with the Commission, APW indicated that the costs of the expansion of The Links WWTP are \$650,000 for treatment and disposal equipment, \$255,000 for power and generation equipment, \$295,000 for pump equipment, \$146,000 for communication equipment, and \$54,000 for exterior improvements. APW estimated its administration fee for the WWTP expansion to be \$60,350 and its value-added fee to be \$98,200 for a total project cost to the Builder of \$1,558,550.

V. PROPOSED RATES

APW will charge its existing Rate Zone 3 rates for wastewater service within the requested territory as set forth in its effective wastewater tariff. In supplemental information filed with the Commission, APW updated the estimated annual revenue for providing service to 99 residential units with an estimated average flow of 6,300 gallons per month per connection to be \$170,636. Aqua also updated the estimated annual revenue for providing service to the hotel/event facility to be approximately \$30,114, assuming an average flow of 165,000 gallons per month. APW estimated total annual expenses to be approximately \$56,158 at build out. These revenue and expense estimates would result in a net annual operating income of approximately \$144,592.

⁵ See Ordering Paragraph No. 3

⁶ See Ordering Paragraph No. 4

VI. PERMITS, EASEMENTS, AND RIGHTS-OF-WAY REQUIRED

In the Application, APW indicated that The Links WWTP operates under National Pollution Discharge Elimination System (NPDES) Permit Number PA0246484 and WQM Permit Number 0102404. APW also noted that the Builder's engineer would complete the required design for the proposed expansion of The Links WWTP and that The Links WWTP expansion will require a NPDES Permit Amendment and WQM Part II permit application. In supplemental information filed with the Commission, APW provided copies of the NPDES and WQM permits and indicated that if DEP requires a WQM Part II permit for the construction of the collection system, a permit application will be assembled and submitted by APW with the Builder bearing the cost of the application. Separately, the Builder will be required to obtain all local building permits from Mount Joy Township.

APW noted that, per the Builder's Extension Agreement, the Builder will be required to provide APW all easements required for APW to own and operate the wastewater collection system located outside of the public rights-of-way established within Wade Run. A *pro forma* copy of APW's standard Grant of Easement agreement was included as Attachment F to the Builder's Extension Agreement provided in the Application's Attachment G. The utility easements to be conveyed to APW are depicted on the plans provided as the Application's Attachment F. Plans that were more legible and clearly depicted the utility easements were filed as supplemental information with the Commission.

VII. ACT 537 SEWAGE FACILITIES PLAN AND LAND-USE COMPLIANCE

The Application included a copy of a letter indicating DEP's approval of a sewage facilities planning module as the Application's Attachment J. The Sewage Facilities Planning Module revised Mount Joy Township's Official Sewage Facilities Act 537 Plan to address Wade Run.

The Application's Attachment D consisted of a copy of a letter, dated February 18, 2022, from the Mount Joy Township (MJT) Board of Supervisors to APW, which indicated that the board of supervisors granted conditional use zoning approvals for a residential development and a hotel/conference center for parcels identified as 30G18-0058---000 and 30G18-0010---000, respectively. However, the letter also noted that approval of the subdivision plan for Wade Run is pending before the MJT Board of Supervisors.

Copies of letters, dated August 13, 2021, and May 22, 2017, from the Adams County Office of Planning and Development (ACOPD) to the Builder and MJT, were provided as the Application's Attachment E. The ACOPD letters indicated that ACOPD reviewed the Wade Run subdivision plan against applicable requirements of the MJT subdivision and land development ordinance and included comments regarding Wade Run's compliance.

Although the letters from MJT and ACOPD do not indicate that there is an objection to the Wade Run subdivision plan, the letters do not substantiate official approval of the plan nor verify compliance with applicable comprehensive plans and zoning ordinances. In supplemental information filed with the Commission, Aqua indicated that MJT's zoning and planning offices continue to review the development and the project has not been granted preliminary or final plan approval. Until Wade Run is granted preliminary or final plan approval from MJT's Board of Supervisors, the need for public wastewater service is speculative. As such, the issuance of a certificate of public convenience for APW to provide wastewater service to the public in the requested service territory will be conditioned upon APW providing documentation that evidences that the Wade Run subdivision plan, formally known as Links of Gettysburg Planned Golf Community-Preliminary Subdivision Plan for Wade Run Community, has received preliminary or final approval from the MJT Board of Supervisors.⁷ An example of such

⁷ See Ordering Paragraph No. 1.

documentation would be a copy of a signed letter from the MJT Board of Supervisors to the Builder that indicates preliminary or final approval.

VIII. OTHER CONSIDERATIONS

In the Application, APW averred that, to the best of its knowledge, no corporation, partnership or individual is currently furnishing or has corporate or franchise rights to furnish service like that to be rendered by APW in the requested territory, and no competitive condition will be created. Additionally, in supplemental information filed with the Commission, APW averred that the request to provide public wastewater service to a new development area that is contiguous to APW's existing Links of Gettysburg System and service territory, and that no other wastewater utility or authority exists to provide alternative service to this new area of the development. Further, in supplemental information filed with the Commission, APW averred that the approval of the Application would benefit existing APW customers by allowing for operating costs to be shared among more customers. APW further indicated that the Application is in the public interest because there is a need for public wastewater service, as evidenced a request for service, and APW is fit to provide service.

Finally, APW has no outstanding fines or assessments due to the Commission and is current with its annual and quarterly earnings reports and the Commission's security planning and readiness report filing requirements. Through Commission correspondence with the DEP's Southcentral Regional Office, it was determined that DEP does not have any pending actions or outstanding complaints against APW within DEP's Southcentral Region.

IX. CONCLUSION

Based upon the facts that, if Wade Run receives municipal subdivision planning approval, there is a need to make public wastewater service available within the requested territory; APW will expand its service territory to new customers in compliance with

Commission regulations; and that APW is fit to provide service; the Commission finds that granting APW's Application for an extension of service territory is in the public interest; **THEREFORE,**

IT IS ORDERED:

1. That the Application of Aqua Pennsylvania Wastewater, Inc. at Docket No. A-2022-3031502, is hereby approved conditioned upon Aqua Pennsylvania Wastewater, Inc. filing documentation with the Secretary's Bureau at Docket No. A-2022-3031502, with a copy provided to the Bureau of Technical Utility Services, that evidences that the Links of Gettysburg Planned Golf Community-Preliminary Subdivision Plan for Wade Run Community has received preliminary or final approval from the Mount Joy Township Board of Supervisors.

2. That upon receipt of the verification required by Ordering Paragraph 1, a Certificate of Public Convenience shall be issued pursuant to 66 Pa.C.S. § 1102(a)(1) of the Public Utility Code, authorizing Aqua Pennsylvania Wastewater, Inc. to begin to offer, render, furnish, or supply wastewater service to an additional portion of Mount Joy Township, Adams County.

3. That within 10 days of the execution of any form of facility expansion agreement that Aqua Pennsylvania Wastewater, Inc. enters into to increase the treatment capacity of its Links at Gettysburg Wastewater Treatment Plant, it shall file a copy of said agreement with the Commission's Secretary's Bureau for review by the Commission's Bureau of Technical Utility Services.

4. That in its first base rate proceeding in which Aqua Pennsylvania Wastewater, Inc. proposes to recover any costs associated with upgrades or additions to its Links at Gettysburg Wastewater Treatment Plant for increasing hydraulic or organic loading capacity, Aqua Pennsylvania Wastewater, Inc. shall, for informational purposes, provide testimony including the following:

- a. Identification of this proceeding by docket number;
- b. A detailed breakdown of the costs for any upgrades or additions to increase the hydraulic or organic treatment capacities of the plant;
and
- c. Identification of the source of funding for the any upgrades or additions to increase the hydraulic or organic treatment capacities of the plant.

5. That nothing herein shall be construed as an approval or determination of costs or expenses for the purposes of just or reasonable rates or to exempt Aqua Pennsylvania Wastewater, Inc. from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.

6. That a copy of this Order be served upon Aqua Pennsylvania Wastewater, Inc., the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Mount Joy Township Board of Supervisors, the Mount Joy Township Planning Commission, the Adams County Commissioners, the Adams County Planning Commission and the Pennsylvania Department of Environmental Protection – Southcentral Regional Office and its Bureau of Regulatory Counsel.

7. That the proceeding at Docket No. A-2022-3031502 be closed after a Certificate of Public Convenience is issued in accordance with Ordering Paragraph 2.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: October 27, 2022

ORDER ENTERED: October 27, 2022