

COMMONWEALTH OF PENNSYLVANIA



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December 12, 2022

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

Re: Application of Community Utilities of
Pennsylvania Inc.
Docket Nos. A-2022-3036744 (Wastewater)
A-2022-3036745 (Water)

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Protest and Public Statement in the above-referenced proceedings.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon
Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
EGannon@paoca.org

Enclosures:

cc: Office of Administrative Law Judge (**email only:** crainey@pa.gov)
Bureau of Technical Utility Services (**email only:** dsearfoorce@pa.gov; sdonnelly@pa.gov)
Office of Special Assistants (**email only:** ra-OSA@pa.gov)
Certificate of Service

*338423

CERTIFICATE OF SERVICE

Application of Community Utilities of :
Pennsylvania Inc., for Certificates of Public :
Public Convenience under Sections 1102(1)(3) :
and 1103 of the Public Utility Code and All : Docket Nos. A-2022-3036744 (wastewater)
Other Approvals Necessary Under the Public : A-2022-3036745 (water)
Utility Code for Approval of a Merger of :
Equals Transaction :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Protest and Public Statement, 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 12th day of December 2022.

SERVICE BY E-MAIL ONLY

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Phone: 717-783-5048
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Dated: December 12, 2022
*338425

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Community Utilities of	:	
Pennsylvania, Inc. for Certificates of Public	:	
Convenience under Sections 1102(a)(3) and	:	Docket Nos. A-2022-3036744
1103 of the Public Utility Code and All Other	:	A-2022-3036745
Approvals Necessary Under the Public Utility	:	
Code for Approval of a Merger of Equals	:	
Transaction	:	

PROTEST OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to 52 Pa. Code §§ 5.51, *et seq.*, the Office of Consumer Advocate (OCA) files this Protest regarding the Applications filed with the Pennsylvania Public Utility Commission (Commission) by Community Utilities of Pennsylvania Inc. (CUPA) related to a change in control. In support of this protest, the OCA provides the following information:

1. The protestant is:

Patrick M. Cicero, Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: 717-783-5048

Throughout this Protest, the protestant will be referred to as the Office of Consumer Advocate or OCA.

2. The OCA's attorney is:

Erin L. Gannon
Senior Assistant Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048
EGannon@paoca.org

3. The OCA is authorized by law to represent the interests of Pennsylvania’s utility consumers in all matters before the Commission. 71 Pa. Stat. Ann. §§ 309-1 *et seq.* (Purdon's 1990).

4. On or about November 9, 2022, the Applicant filed Applications related to a change in control of its Pennsylvania water and wastewater utilities, under Sections 1102 and 1103 of the Public Utility Code, 66 Pa. C.S. §§ 1102, 1103. Specifically, the Applicant seeks the Commission’s approval of a proposed merger of Corix Infrastructure (US) Inc. (Corix US) and SW Merger Acquisition Corp. (SWMAC).¹ Application ¶¶ 1. Corix US indirectly owns 100% of CUPA. *Id.* at 4. As proposed, a new entity will be created, named Intermediate Newco, that will indirectly own 100% of CUPA, and all of the regulated water and wastewater utilities currently owned by Corix US’s parent (Corix Infrastructure, Inc.) and SWMAC. *Id.* at 7, 14.

5. Section 1102 requires the Applicants to show that the proposed transaction will affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way. *City of York v. Pa. PUC*, 449 Pa. 136, 141, 295 A.2d 825, 828 (1972). In addition, the Applicants must show that the transaction is in accordance with the Public Utility Code and applicable Commission rules and regulations. *See* 66 Pa. C.S. §§ 1102, 1103, 1301, 1501.

6. Section 1103 explicitly allows the Commission to impose conditions upon the issuance of a Certificate of Public Convenience. 66 Pa. C.S. § 1103(a). Section 1103(a) of the Code provides: “The Commission, in granting such a certificate, may impose such conditions as it may deem to be just and reasonable.” The OCA submits that the Commission may wish to consider the imposition of conditions to ensure that the public interest standard is met.

¹ CUPA names and joins Corix US and SWMAC as necessary parties to this proceeding and represents that they have no objection to being named as a party. Application ¶¶ 4, 5.

7. The OCA is reviewing the Applications to identify specific issues that require further consideration by the Commission and must be resolved prior to Commission approval. The OCA has already had already reached out to counsel for the Applicants to begin obtaining information necessary for its review of the filing and will continue to work with the Applicants informally. It is possible that the OCA's issues will be narrowed or resolved through the Applicants' provision of additional information. Thus, the OCA files this Protest, in part, to allow time to explore the issues raised by the proposed change in control and collect the facts necessary to complete the record before the Commission.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission not approve the Applications at this time due to the need for additional information.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney ID No. 83487
EGannon@paoca.org

Counsel for:
Patrick M. Cicero
Consumer Advocate

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717-783-5048
Dated: December 12, 2022
338420

PUBLIC STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Protest and participate in this proceeding before the Commission involving the proposed change in control of Community Utilities of Pennsylvania, Inc. (CUPA) water and wastewater utilities.

The objective of the Consumer Advocate in filing a Protest in this matter is to protect the interests of CUPA's current customers. The Consumer Advocate will endeavor to prevent ratepayers from paying costs that are unreasonable or unduly discriminatory, or otherwise violative of the Public Utility Code. The Consumer Advocate will investigate the proposed change of control and request the Public Utility Commission order all necessary and proper customer protections which are justified, reasonable, and in accordance with sound ratemaking principles.

CUPA serves approximately 3,278 water customers in Monroe County, Northampton County and Pike County, Pennsylvania, and approximately 3,846 wastewater customers in Monroe County, Chester County, and Pike County, Pennsylvania.