

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: R-2022-3036634
C-2022-3037266

v.

AQUA PENNSYLVANIA WASTEWATER, INC.

and

RICHARD ADAMS

v.

AQUA PENNSYLVANIA WASTEWATER, INC.

PETITION TO INTERVENE OF LOWER MAKEFIELD TOWNSHIP

Pursuant to the provisions of the Rules and Practice and Procedure of the Pennsylvania Public Utility Commission (hereinafter sometimes referred to as the “PUC” or the “Commission”) 52 Pa.Code §§5.61-5.76, Lower Makefield Township (hereinafter sometimes referred to as “Petitioner,” “Lower Makefield,” or “Township”), by and through its counsel at Hill Wallack LLP, hereby petitions the Pennsylvania Public Utility Commission to intervene in the above-captioned proceeding. In support thereof, Lower Makefield Township avers as follows:

1. Petitioner, the Township of Lower Makefield, is a township of the second class organized and operated pursuant to the Act of May 1, 1933, P.L. 103, 53 P.S. §§65101-67201, as amended, also known as the “Second Class Township Code.” The Township has a mailing address of 1100 Edgewood Road, Yardley, Pennsylvania, 19067.
2. Petitioner is represented by the following attorney whose contact information is as follows:

David J. Truelove, Esquire
Hill Wallack LLP
777 Township Line Road
Suite 250
Yardley, PA 19067
Telephone: 267-759-2075

Facsimile: 215-579-9248
dtruelove@hillwallack.com

Counsel for Lower Makefield is authorized to accept service on its behalf. Lower Makefield requests that the Commission and all parties of record serve copies of all documents (including, but not limited to correspondence, discovery requests and answers, commission orders, pleadings and testimony, etc.) electronically on its counsel of record as well as by hard copy.

3. Lower Makefield is a township in Bucks County approximately 18.28 square miles in area and with an approximate population of 33,180.
4. The subject matter of the present Petition is the sewer system formerly owned by the Township and the rates charged by users within the Township, including the Township itself.
5. The Township's eligibility to intervene is governed by Section 5.72 of the Commission's administrative regulations, which provide:

A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

- (1) A right conferred by statute of the United States or of the Commonwealth.
- (2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.
- (3) Another interest of such nature that participation of the petitioner may be in the public interest.

52 Pa.Code §5.72(a).

6. Lower Makefield has a direct, substantial, and immediate interest in this matter as a municipal entity obligated under the Second Class Township Code, to ensure sound fiscal management, and to “secure the health, safety and welfare of the citizens of the township.” 53 P.S. §65607(1).
7. The Township also is charged with the “responsibility for the maintenance of township-owned equipment and facilities.” 53 P.S. §65607(2).
8. In March 2022, as part of the fulfillment of its statutory duties, the Township sold its sanitary sewer system to Aqua Pennsylvania Wastewater, Inc. (hereafter sometimes referred to as “Aqua” or the “Company”) who now owns, operates, and maintains the wastewater sanitary sewer system within the Township.
9. Prior to the sale of the sanitary sewer system, many of the Township residents maintained secondary water meters to measure water which is used (for such accessory activities as swimming pools, lawn sprinkling systems, and such similar accessory residential activities), but which does not enter the wastewater system nor is treated by Aqua in the wastewater system.
10. Prior to the sale, the Township provided exemptions for these ratepayers due to this metered water not entering the then Township-controlled wastewater system.
11. These ratepayers have requested, through the Township, that they who have installed and use secondary water meters be provided credits or such similar deductions and/or exemptions from otherwise normal sanitary sewer billing and rates as was previously provided by the Township.
12. Specifically, the Township’s residents who presently use or will use, in the future, such secondary water meters request general approval of credits, deductions and/or exemptions

from Aqua to the otherwise applicable sanitary sewer billing charges as the use of the secondary water is not conveyed into nor treated by Aqua in the wastewater system.

13. Moreover, the Township owns and operates the Aquatics Complex, which is a summer recreation facility located in the Township's Community Park and includes four separate swimming pools with an aggregate water volume of 725,171 gallons, which is filled and maintained each operating season.
14. On or about November 8, 2022, the Company filed Supplement No. 2 to Tariff Sewer- PA P.U.C. No. 3 ("Proposed Tariff Supplement") to revise language concerning the use of secondary water meters for acquired wastewater customers in the Township, covered in Rate Zone 12, and two other Southeastern Pennsylvania municipalities – Limerick Township (covered under Rate Zone 7) and East Norriton Township (covered under Rate Zone 10).
15. With respect to its customers in the Township, "[t]here are a number of customers who have previously installed a deduct meter to measure water which is used but does not enter the Company's wastewater system. This billing deduction was not a part of the application order and this change is to permit customers who have a deduct meter to receive the deduction previously provided for by Lower Makefield Township." Proposed Tariff Supplement, at 2, ¶1 (Rate Zone 12).
16. On November 23, 2022, Richard Marotto filed a letter in support of the Proposed Tariff Supplement.
17. On December 16, 2022, Richard Adams ("Complainant") filed a letter and Formal Complaint objecting to the Proposed Tariff Supplement.

18. On December 22, 2022, the Commission issued an Order suspending the Proposed Tariff Supplement by operation of law until July 7, 2023, unless permitted by Commission Order to become effective at an earlier date.
19. On January 3, 2023, the Company filed Supplement No. 6 to Tariff Sewer- PA P.U.C. No. 3 (Suspension Tariff Supplement) to suspend the Proposed Tariff Supplement until July 7, 2023, in accordance with the Commission's Order issued December 22, 2022.
20. Lower Makefield has a direct and substantial interest in the instant proceeding, which is not, and cannot, be adequately represented by any other party. As the resident municipality for the affected ratepayers, and a ratepayer itself, Lower Makefield occupies a unique and unitary status to best effectuate the concerns of the affected ratepayers and effectuate the concerns of those affected rate payers and avoid a multiplicity of individual, identical PUC filings. Lower Makefield is promoting and protecting the welfare of its citizens and ratepayers accordingly.
21. Moreover, as Lower Makefield's participation serves the public interest as it seeks to secure approval of deductions, credits, and/or exemptions to any past, present, and future residential secondary water meter holders in the Township.
22. An evidentiary hearing in this matter is not scheduled until February 23, 2023.
23. Therefore, Lower Makefield satisfies the Commission's standards for intervention. 52 Pa.Code. §5.72(a).

Lower Makefield's Position in These Proceedings

24. Lower Makefield fully supports the Proposed Tariff Supplement as submitted by Aqua, seeks the implementation of same at the earliest moment possible, and, furthermore

supports approval of deductions, credits, and/or exemptions to any past, present and future residential secondary water meter holders.

WHEREFORE, Lower Makefield Township, respectfully requests that the Commission grant its Petition to Intervene and authorize its intervention and participation in the instant proceedings as a full and active party.

Respectfully submitted,

HILL WALLACK LLP

By:



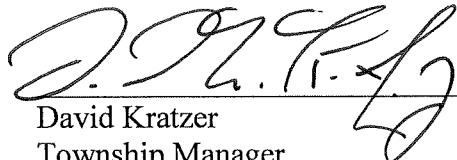
David J. Truelove, Esquire
777 Township Line Road
Suite 250
Yardley, PA 19067
Telephone: 267-759-2075
Facsimile: 215-579-9248
dtruelove@hillwallack.com
Attorneys for Plaintiff
Township of Lower Makefield

DATE: January 29, 2023

VERIFICATION

I, David Kratzer, hereby state that the facts above set forth are true and correct (or 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: 1/25/2023



David Kratzer
Township Manager
Lower Makefield Township

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties and persons, listed below, in accordance with the requirements of §1.54 via first class mail and electronic mail.

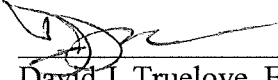
Mary McFall Hopper, Esquire
766 W. Lancaster Avenue
Bryn Mawr, PA 19010
mmhopper@aquaamerica.com
Counsel for Aqua of Pennsylvania Wastewater, Inc.

Richard Adams
221 Taylorsville Road
Yardley, PA 19067
urbrroa@hotmail.com
Complainant, *pro se*

The Honorable Darlene Heep
Administrative Law Judge
Pennsylvania Public Utility Commission
dheep@pa.gov
sdevillar@pa.gov

HILL WALLACK LLP

Date: January 25, 2023

By: 
David J. Truelove, Esquire
777 Township Line Road
Suite 250
Yardley, PA 19067
Telephone: 267-759-2075
Facsimile: 215-579-9248
dtruelove@hillwallack.com
Attorneys for Plaintiff
Township of Lower Makefield