



VIA E-FILING

January 31, 2023

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

**RE: Reply Comments of Aqua Pennsylvania, Inc.
Use of Fully Projected Future Test Year, 52 Pa. Code Chapter 53.51-53.56a
Docket No. L-2012-2317273**

Dear Secretary Chiavetta:

Enclosed please find the Reply Comments of Aqua Pennsylvania, Inc. to the Pennsylvania Public Utility Commission's ("PUC" or the "Commission") June 17, 2021 Notice of Proposed Rulemaking Order, May 12, 2022 Ordering Clarifying the Notice of Proposed Rulemaking Order, and the August 24, 2022 Clarified Notice of Proposed Rulemaking Order concerning the Fully Projected Future Test Year of the Commission's regulations, 52 Pa. Code Chapter 53.51-53.56a.

If you have any questions regarding this filing, please contact me at 610-645-1130.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alex Stahl".

Alexander R. Stahl
Regulatory Counsel

Enclosure

cc: Louise Fink Smith, Law Bureau (via email)
Melanie J. El Atieh, Law Bureau (via email)
Erin Laudenslager, Bureau of Technical Utility Services (via email)
Karen Thorne, Law Bureau (via email)
RA-PC-FPFTY2317273E@pa.gov (via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Use of Fully Projected Future Test Year, :
52 Pa. Code Chapter 53.51-53.56a : Docket No. L-2012-2317273

Reply Comments of
Aqua Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Use of Fully Projected Future Test Year, :
52 Pa. Code Chapter 53.51-53.56a : Docket No. L-2012-2317273

**REPLY COMMENTS OF AQUA PENNSYLVANIA, INC.
TO THE
NOTICE OF PROPOSED RULEMAKING ORDER**

I. INTRODUCTION

Aqua Pennsylvania, Inc. (“Aqua or the “Company”), pursuant to the Clarified Notice of Proposed Rulemaking Order (“NOPR Order”) published in the *Pennsylvania Bulletin* on October 1, 2022, 52 Pa. Bulletin 4926, and the Secretarial Letter dated October 14, 2022 which extended the deadline for filing Reply Comments, files these Reply Comments with the Pennsylvania Public Utility Commission (“Commission”).

II. GENERAL COMMENTS

Aqua agrees with the Comments submitted by parties such as the Energy Association of Pennsylvania, Pennsylvania Electric Company, Pennsylvania Power Company, Peoples Natural Gas, the National Association of Water Companies (“NAWC”) and many others specifically as it pertains to whether or not an extensive overhaul of the existing regulations is warranted. The extensive changes being proposed significantly increase the requirements for filing a rate case and may produce volumes of data that make it hard for all parties involved in the case to appropriately analyze and evaluate the most important aspects of a rate case. The additional requirements being proposed may also further increase the already significant costs associated with filing a rate case. Aqua realizes that there are some elements of the existing filing requirements that can be updated to better address topics brought to light by Act 11 of 2012, but the Company wants to ensure that the regulatory burden and costs associated with preparing and litigating general base rate cases is

not done in a manner that would impede the Commission’s goal of standardizing and streamlining the required filing requirements.

The filing requirements do not need to address every single issue that could arise in a rate case as noted by the Office of the Small Business Advocate (“OSBA”) in their original comments.¹ Rather, the requirements and subsequent changes that will be made to the existing filing requirements should address the significant matters that establish the minimum filing requirements necessary for filing a base rate case. Anything further than what is deemed as necessary in terms of being a minimum filing requirement would place unnecessary costs on all involved parties in the case.

III. COMMENTS

A. RESPONSE TO COMMENTS OF SPECIFIC PARTIES

1. Annex A

Aqua respectfully submits the following comments regarding the comments issued by specific parties related to the following issues discussed within Annex A.

Section 53.52(a)(4): Aqua opposes the recommendation of the Office of Consumer Advocate (“OCA”) at Section 53.52(a)(4) to include the effect of the change on the public utility’s customers, including the impact at usage levels for typical low, medium, and high usage for residential customers. Such a requirement is onerous and does not aid in the goal of streamlining the rate case filing process. The current process of reporting rate changes at typical usage levels provides the public with a meaningful benchmark to estimate changes to residential bills. Reporting changes at three different usage levels may only serve to confuse the public

¹ OSBA Comments at 2.

rather than clarify changes to future bills. Last, OCA has not specifically defined low, medium, and high usage levels in this requirement and those levels may vary by utility.

Section 53.53(c): Aqua opposes OCA’s recommendation that supporting worksheets will be provided in electronic format with all formulae intact. This requires submission of proprietary information such as spreadsheet models (that often are linked to other source files) which should remain confidential. Requiring a utility to include all source files that are linked to certain models would also be overly burdensome, especially considering some of these files are linked to financial or asset management software systems that cannot be provided in a filing. Aqua notes and agrees with NAWC’s comment on Section III.A.8 that formulas in electronic files are proprietary information and that during a proceeding, the parties can exchange proprietary information in discovery subject to a protective order. Aqua respectfully requests that the Commission not adopt OCA’s recommendation.

2. Annex B

Aqua respectfully submits the following comments regarding the comments issued by specific parties related to the following issues discussed within Annex B.

- a. General**
- b. Summary of Filing**
- c. Description of Public Utility Operations**
- d. Rate Base**

Aqua disagrees with the OSBA’s comment that a public utility’s revenue requirement for the FPFTY should be based on the average rate base for that calendar period.² In the Opinion and Order at Docket R-2017-2640058, the Commission agreed with the rationale and

² OSBA Comments at 2.

recommendation of the ALJs to permit UGI to utilize a year-end rate base methodology. The Commission noted from the language under Act 11 as set forth in Section 315(e) “ ... the Commission may permit facilities which are projected to be in service during the fully projected future test year to be included in the rate base.....” The Commission also noted that it may invoke certain available protections against overstatement of plant in rate base which include requiring verification through a subsequent rate filing and ordering an audit when appropriate. Aqua agrees with NAWC that OSBA’s proposal was also previously rejected by the Commission in a decision that was affirmed by the Commonwealth Court of Pennsylvania. *McCloskey v. PA. Pub. Util. Comm’n*, 225 A.3d 192 (Pa. Cmwlth. 2020). Therefore, the Commission should not accept OSBA’s recommendation regarding use of average rate base.

Section III.D.11: Aqua disagrees with the OCA’s comment requesting original budgeted and current budgeted cost broken down by allowance for funds used during construction (“AFUDC”) and non-AFUDC components. Aqua questions the relevancy of the request and how it contributes to the goal of streamlining required filing information and reducing the regulatory burden and costs associated with preparing and litigating general rate increase cases.

Section III.D.16: Aqua disagrees with OCA’s recommendation to provide projected monthly plant in service balances for the FTY and FPFTY and questions how the benefit achieved by adding this requirement outweighs the additional regulatory burden to the filing utility. Aqua notes that the Commission has the authority to verify forecasted plant in service in a subsequent base rate filing or audit.

e. Rate of Return

Section III.E.1, 2, 6, 8, 15, 17, 20, 24, 26, 32, and 36: Aqua questions how these requests which pertain to the parent company and/or “consolidated group” are relevant to the

filing of a specific utility seeking an increase in base rates. The parent company, and the consolidated group may be spread across industries which are different than the filing utility. Such requests are more appropriately reserved for the discovery process and not as a standard filing requirement of a base rate case.

Section III.E.12: Aqua proposes limiting subpart (e) of this request to the end of the FPFTY and questions the relevance of providing information beyond the timeframe of the FPFTY due to it being outside the scope of the base rate claim period.

f. Balance Sheet

Section III.F.5: In addition to the 15% increase change, Aqua proposes adding a minimum dollar threshold to this request in order to avoid unnecessary analysis and regulatory burden associated with immaterial changes. Aqua maintains that a dollar threshold should be added to any request that requires explanations of a change of 15% or more whether they be on the Balance Sheet, Income Statement, or any other section of the filing requirement. Any request for changes outside of these criteria are more appropriately suited for discovery.

g. Income Statement and Cash Flow Statement

h. Operating Revenue

Section III.H.5: Aqua supports Pennsylvania America Water Company's ("PAWC) request to establish a dollar threshold as well as a percentage threshold for this requirement. Explanations of immaterial dollar amounts can be burdensome and require companies to produce significant amounts of records that may have little to no value in the rate proceeding.

Section III.H.8: Aqua agrees with PAWC in that there is no reason or value in providing information to the Commission pertaining to an affiliated public utility in another jurisdiction.

Section III.H.13: Aqua agrees with PAWC’s questioning of the need for data dating back to three years prior to the HTY when data for some of those years would have been included in a utility’s prior rate case filing.

i. Operating Expenses

Section III.I.5: Aqua disagrees with the OCA and their proposal to add subparts (e) and (f) to the section as the Company believes that the information being requested is sufficiently addressed in subparts (b) through (d) of the same section. Explanations of the nature of the services provided, explanations of the basis on which charges are made, and dollars associated with these charges provide ample supporting documentation that explain in detail what the stated charges are and why they are being incurred.

Section III.I.8: Aqua disagrees with the OCA that a public utility should be required to explain major variances of 15% or more between the HTY expenses and those expenses for the two preceding 12 month periods as well as similar schedules explaining major variances of 15% for claimed above the line amounts for the FTY and the FPFTY.³ Aqua notes that in order to avoid explaining small accounts with immaterial balances that a certain dollar threshold, in addition to a percentage change, should be established for identifying and explaining changes to account balances. The goal of explaining such variances should be to address material changes in business structure or business processes.

j. Employee Costs, including Related Costs such as Benefits and Retiree Costs

Section III.J.1: Aqua disagrees with the OCA’s proposal to add subparts (c) and (d) to this section. Employee changes are a part of the natural cycle of any business and being required to keep a detailed file, especially a historic look back prior to the HTY, as to why employees are

³ OCA Comments at 10.

leaving or joining and why employee counts have changed is overly burdensome, very time consuming and provides little value. Providing employee counts at the time of the HTY and projections and explanations for the FTY and the FPFTY are what is relevant to the rate proceeding. Item b of this section appropriately addresses changes to employee counts by requiring companies to explain any material changes in employee counts.

k. Depreciation

l. Taxes

m. Rate Structure, Cost or Service Allocation Study, Bill Frequency Analysis, and Special Rate Contracts

Section III.M.1: Aqua disagrees with the OCA's position as it pertains to providing information concerning bill discount programs and low-income customers. Most of the information about bill discount programs is already provided by utilities as part of their rate filing and if there is additional data needed, it can be requested in discovery.

Finally, OCA's request and proposal for information related to low-income customers as set forth on pages 11-14 of their Comments is overly burdensome and voluminous in nature and some of the information is not readily available or accessible to the companies that are being requested to provide it.

IV. CONCLUSION

Aqua appreciates the opportunity to submit Reply Comments regarding the NOPR order. Aqua looks forward to continuing to work with the Commission on these issues. Please direct any questions with regard to these comments to the undersigned.

Respectfully submitted,



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Dated: January 31, 2023