

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.66, YOU MAY ANSWER THE ENCLOSED PETITION TO INTERVENE WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PETITION TO INTERVENE MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL FOR THE MUNICIPAL AUTHORITY OF THE BOROUGH OF SHENANDOAH.

/s/ William C. Rhodes

William C. Rhodes, Esquire (PA I.D. 63029)

Ballard Spahr LLP

1735 Market Street, 51st Floor

Philadelphia, PA 19103-7599

rhodes@ballardspahr.com

Dated: March 3, 2023

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Aqua Pennsylvania, Inc. (“Aqua”) under Sections 1102 1329 of the Pennsylvania Public Utility Code for (1) approval of the acquisition by Aqua of the water system assets of the Borough of Shenandoah (“Shenandoah” or “Borough”) and the Municipal Authority of the Borough of Shenandoah (“MABS” or the “Authority”) situated within the Borough, West Mahanoy Township, Mahanoy Township, Butler Township, Girardville Borough, and Union Township, Schuylkill County, Pennsylvania, (2) approval of the right of Aqua to begin to offer, render, furnish and supply water service to the public in the Borough of Shenandoah, West Mahanoy Township, Mahanoy Township, Butler Township, and Girardville Borough, Schuylkill County, Pennsylvania; (3) an order approving the acquisition that includes the ratemaking rate base of the Borough and MABS water system assets pursuant to Section 1329(c)(2) of the Public Utility Code; and (4) approval of a contract between Aqua, the Borough, and MABS, pursuant to Section 507 of the Public Utility Code.

Docket No. A-2022-3034143

PETITION TO INTERVENE

Pursuant to 52 Pa. Code §§ 5.71, 5.72 and 5.74, The Municipal Authority of the Borough of Shenandoah, a body corporate and politic, organized under the laws of the Commonwealth of Pennsylvania (“MABS” or the “Authority”), by and through its attorneys, Ballard Spahr LLP, hereby files with the Pennsylvania Public Utility Commission (the “Commission”) this Petition to Intervene in the above-captioned Application of Aqua Pennsylvania Wastewater, Inc. (“Aqua”) for approval of (1) acquisition by Aqua of the water system assets of MABS and the Borough of Shenandoah, a body corporate and politic, organized under the Pennsylvania Municipal Authorities Act (“Shenandoah” or the “Borough”) situated within the Borough of Shenandoah, West Mahanoy

Township, Mahanoy Township, Butler Township, Girardville Borough, and Union Township, Schuylkill County, Pennsylvania, (2) the rights of Aqua to offer, render, furnish and supply water service to the public in the Borough, West Mahanoy Township, Mahanoy Township, Butler Township, and Girardville Borough, Schuylkill County, Pennsylvania, (3) an order approving the acquisition that includes the ratemaking rate base of the Borough and MABS water system assets pursuant to Section 1329(c)(2) of the Public Utility Code, and (4) approval of a contract between Aqua, the Borough, and MABS, pursuant to Section 507 of the Public Utility Code.

The Application directly affects the interests of the Authority, which are not adequately represented by any existing party. For the reasons that follow, MABS respectfully requests that the Commission grant its Petition to Intervene, and in support thereof avers as follows:

1. MABS is located in Schuylkill County, Pennsylvania, with a business address of P.O. Box 110, Shenandoah, PA 17976.
2. MABS owns and operates that certain water treatment and distribution system (the “System”) that provides public water service to various customers in Shenandoah, West Mahanoy Township, Mahanoy Township, Butler Township, and Girardville Borough in Schuylkill County, Pennsylvania.
3. MABS is interested in the above-captioned docket as a party to the agreement under which Aqua seeks approval to acquire MAB’s assets, properties and rights related to the System.
4. MABS supports the Application filed by Aqua at this docket.
5. 52 Pa. Code § 5.72 sets forth the eligibility requirements for a party to intervene and provides in part as follows:

a) Persons. 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.

6. MABS seeks intervention in the proceeding for due cause shown for the following reasons:

- a) The Authority is a party to the Asset Purchase Agreement (the “APA”), dated July 20, 2021, that sets forth the terms and conditions for the sale of the System;
- b) As contemplated in the APA, the Authority will receive the proceeds of the sale of the System; and
- c) Aqua’s Application relies on the Authority’s consent to the sale of the System.

7. Thus, the Authority has a substantial and bona fide interest in the subject matter of this docket and its interests cannot be represented or protected adequately by other existing parties to this docket.

8. Additionally, as a party to the APA, MABS submits that its intervention is in the public interest.

9. MABS intends to play an active role in the Commission's decision-making process and its participation herein will not unduly prejudice any party.

WHEREFORE, MABS respectfully requests that the Commission grant the instant Petition to Intervene in this proceeding.


Respectfully submitted,

/s/ William C. Rhodes
William C. Rhodes, Esquire (PA I.D. 63029)
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
rhodes@ballardspahr.com

Dated: March 3, 2023

VERIFICATION

I, James Rusin, the Chairman of the Municipal Authority of the Borough of Shenandoah, hereby verify that the statements of fact made in the foregoing petition 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 made herein are subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


James Rusin

Dated: March 3, 2023

CERTIFICATE OF SERVICE

I, William C. Rhodes, hereby certified that I have served a true and correct copy of the foregoing Petition to Intervene upon the following parties, as indicated below:

PA PUC – VIA E-FILE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105

OSBA

Sharon E. Webb
Assistant Small Business Advocate
swebb@pa.gov

I&E

Carrie B. Wright, Esq.
carwright@pa.gov

Aqua Pennsylvania, Inc.

Alexander R Stahl, Esq.
Aqua Pennsylvania, Inc.
astahl@aquaamerica.com

Courtney L. Schultz, Esq.
Saul Ewing
Centre Square West, 1500 Market Street, 38th Floor
Philadelphia, PA 19102-2186
Courtney.Schultz@saul.com

OCA

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923

Christine Maloni Hoover
CHoover@paoca.org

David T. Evrard
devrard@paoca.org

Harrison W. Breitman, Esq.
hbreitman@paoca.org

Erin L. Gannon
egannon@paoca.org

Laura Myers
lmyers@paoca.org

Intervenor

Donna Gawrylik
114 South West Street
Shenandoah, PA 17976
vette@ptd.net

Shenandoah

William C. Rhodes
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
rhodes@ballardspahr.com

/s/ William C. Rhodes _____

Dated: March 3, 2023