

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.

MAIN BRIEF OF INTERVENOR LOWER MAKEFIELD TOWNSHIP

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I. INTRODUCTION

A. Background

On November 8, 2022, Aqua Pennsylvania Wastewater Inc. (hereinafter sometimes referred to as “Aqua” or “APW”), Utility Code 230240, filed Supplement No. 2 to Tariff Sewer-PA P.U.C. No. 3 (hereinafter referred to as “Supplement No. 2” or “Proposed Tariff Supplement”) to become effective on January 7, 2023. As APW’s Manager of Rates, Erin M. Feeney, stated in her written testimony, Aqua’s submission intended to “address an issue arising out of recent acquisitions by Aqua for Limerick Township, East Norriton Township and Lower Makefield Township ([‘]Townships[’]).” Aqua Statement 1 – Direct Testimony of Erin M. Feeney, at 2.

Preliminarily, the Pennsylvania Public Utility Commission (hereinafter sometimes referred to as the “PUC” or the “Commission”) issued orders “approving Aqua’s application to acquire the wastewater assets of the above systems on July 12, 2018 (Limerick Township), May 21, 2020 (East Norriton Township) and January 13, 2022 (Lower Makefield Township).” Id. Prior to the acquisition of their respective sewer systems, these townships offered a deduct metering program for ratepayers. Id. According to Ms. Feeney, APW’s “Proposed Tariff Supplement would permit customers who previously owned and installed a secondary water meter ([‘]deduct meter[’]) to receive a sewer billing deduction for the measured water consumption that is used but does not enter the Company’s wastewater system as previously provided for by the Townships.” Id. at 2-3.

Aqua and Ms. Feeney understood that the “Townships had a program where customers, at their own expense, would install a secondary meter on their water line that measured water usage for a pool or irrigation. The customers were required to provide readings to the Townships during a designated time period, usually the spring and summer months, and the Townships would apply

a sewer billing deduction for the water measured by the secondary meter and which did not enter the Townships wastewater system.” Id. at 3.

As a result of the Proposed Tariff Supplement, Aqua “anticipates there will be a reduction in revenue of \$97,853 as a result of the deducted volume and a miscellaneous revenue increase of \$41,600[] collected through an Administrative Fee for a net decrease in its annual income of \$56,253. The Administrative Fee is to cover the expenses associated with administering the program, which includes an annual inspection of the customer owned meter.” Id. at 5.

Intervenor Lower Makefield Township’s (hereinafter sometimes referred to as “Intervenor,” “Lower Makefield” or the “Township”) sewer system was formally sold to Aqua on March 4, 2022, with operations transferring to APW on March 5, 2022. Lower Makefield Township Statement 2 – Direct Testimony of Greg Hucklebridge, at 2. Township Consultant Greg Hucklebridge, formerly the Township’s Public Works Director, explained the billing arrangement in Lower Makefield for secondary meters during the Township’s ownership of the sewer system. He noted that “[t]ypically, a property pays for sewer usage based on water meter readings from a water utility company (Morrisville Municipal Authority customers or Pennsylvania American Water customers). Lower Makefield Township had agreements to obtain the water meter records in order to perform the sewer billing. If the properties utilize a well for water supply, they pay a flat rate for the sewer since they do not have a water meter.” Id. at 4.

With respect to secondary water meters, Mr. Hucklebridge clarified that a “...property connected to the Lower Makefield Sewer System would hook up a second water meter to a water pipe leading outside of the home where the water would be used for various functions (irrigation, filling a pool, washing a car...) and not go into the sewer system. This meter would need to be

installed by a licensed plumber with a permit through the Township’s Planning and Zoning Department (now renamed Community Development Department).” Id. at 6.

Mr. Hucklebridge was aware that a waiver program existed for secondary meters since becoming the Township’s Public Works Director, which included serving as head of the sanitary sewer system, in February of 2017. N.T. 2/23/2023, at 107. Residents would inquire with the Department of Public Works about a secondary meter and how to obtain a waiver. Id. at 106. While residents often became aware of the waiver program by word of mouth, “we also had information on our website when we had the sewer as part of our assets, so they could find it in either location, you know, online or by word of mouth. And then they would request that, that type of consideration be given. Information would be provided about what type of meter you're going to have it installed by a certified licensed plumber with a permit from the Community Development Department.” Id.

The individual property owner or ratepayer was responsible for all costs connected to the procurement and installation of a second meter, and the acquisition of the associated permits. Lower Makefield Township Statement 2 – Direct Testimony of Greg Hucklebridge, at 7. Mr. Hucklebridge also observed that “once that would be done, a picture would be taken by that resident, and/or the plumber that would establish the first meter reading, and then on an annual basis, the homeowner would be responsible to provide an updated picture of that meter to our billing company, outside company, and a deduction credit would be provided based on that meter reading on an annual basis.” N.T. 2/23/2023, at 106. Ultimately, “[a]pproximately 500 accounts received a waiver from sewer charges prior to the sale of the Sewer System with approximately 300-350 of those accounts actively participating to receive credits.” Lower Makefield Township Statement 2 – Direct Testimony of Greg Hucklebridge, at 6.

James Majewski, the Township’s Community Development Director, Zoning Officer, and Floodplain Manager, oversees permit applications in the Township. Lower Makefield Township Statement 1 – Direct Testimony of James Majewski, at 3, 7. Permits are required for the installation of an inground pool or an above ground pool. Id. In 2022, the year Aqua formally took possession of the former Township sewer system, there were 43 permit applications for an inground or an above ground pool. Id. As of February 3, 2023, there were 4 permit applications for an inground or an above ground pool. Id. at 8.

In her rebuttal testimony, Ms. Feeney noted that Aqua was “incorporating an existing practice from three wastewater systems it has acquired.” Aqua Statement 1-R – Rebuttal Testimony of Erin M. Feeney, at 3. Ms. Feeney disclosed that “[b]y limiting the eligible customers to those that already purchased a secondary meter at their own expense, the Company will not incur any additional expenses to install secondary water meters on customer-owned water lines, particularly in areas where Aqua is not the water provider.” Id. (emphasis original).

Aqua customer Richard Adams (hereinafter sometimes referred to as “Complainant” or “Adams”) who has had a pool at his residence in Lower Makefield since about 1961, did not obtain a secondary meter or waiver. See, N.T. 2/23/2023, at 65-66. Complainant acknowledged that he paid for wastewater service while he was a customer of Lower Makefield during the Township’s ownership of the sewer system. Id. at 65-66. Adams revealed that since the installation of his pool in the early 1960s, he has had to have his pool drained roughly every twenty years when replacing the pool liner. See, Id. at 66. Generally, natural rainfall ensured that the pool had sufficient water in the periods between liner replacement; however, Adams noted he did add water to his pool during the spring and fall. See generally, Id. at 66-68. Despite the waiver for a secondary meter existing for years prior to Aqua’s purchase, Adams claimed that “if I had known that...I could

have bought a water meter back then when I was gainfully employed and not living on a fixed income, I'm pretty sure I would have done it." Id. at 68. Adams acknowledged that, from time to time, he would contact Township officials regarding his concerns. Id. at 75. Additionally, Adams testified that he had a computer and he revealed that he visited the Township website to learn the leaf collection schedule and had the opportunity to review the secondary water meter program on the Township website in the last three years. See, Id. at 75-76.

Instead, Adams filed his formal complaint initiating the instant proceedings.

B. Burden of Proof

As a general matter, decisional law in this Commonwealth is clear, "[p]ublic utility rates, of course, are required to be just and reasonable, and, where a customer is heard to complain concerning a proposed change in rate, the burden of proof is upon the public utility to show that the proposed rate is just and reasonable." Brockway Glass Co. v. Pa. Pub. Util. Comm'n, 437 A.2d 1067, 1070 (Pa. Commw. Ct. 1981) (internal citations omitted). "Where the complaint involves an existing rate, however, the burden then falls upon the customer to prove that the charge is no longer reasonable." Id.

As noted herein, Complainant has claimed "discrimination in the rate" in that ratepayers who have a secondary water meter are "avoiding a charge that I was charge[d] that [Aqua Pennsylvania Wastewater Inc.] did not perform the service of treating my water that's in my pool." N.T. 2/23/2023, at 89.

The Commonwealth Court has further observed that "[i]t must first be noted that not all differences in rates are discriminatory and, therefore, unlawful. Only unreasonable differences are prohibited." Philadelphia Elec. Co. v. Pa. Pub. Util. Comm'n, 470 A.2d 654, 657 (Pa. Commw. Ct. 1984) (citations omitted).

Furthermore:

Before a rate can be declared unduly preferential and therefore unlawful, it is essential that there be not only an advantage to one, but a resulting injury to another. Such an injury may arise from collecting from one more than a reasonable rate to him in order to make up for inadequate rates charged to another, or because of a lower rate to one of two patrons who are competitors in business. There must be an advantage to one at the expense of the other.

Id.

Moreover, “the complainant has the burden of proving that the rates in question are discriminatory.” Id. The determination of whether a classification employed by a utility provider is reasonable is a question of fact for the PUC. Id.

Lower Makefield submits that Complainant has failed to prove that the exemption proposed under the Proposed Tariff Supplement to customers who had previously installed secondary water meters is discriminatory. In the Township’s view, Aqua merely is reinstating billing practices from acquired entities, such as the Township when it owned the sewer system servicing Complainant. With that said, the Township proposes that this exemption under the Proposed Tariff Supplement should be extended to all ratepayers willing to purchase and install a secondary meter because Aqua is not treating said water. In the absence of that enlargement of the Proposed Tariff Supplement’s scope, the Township’s position is that there is no basis to delay or otherwise bar implementation of the Proposed Tariff Supplement on the basis of perceived, but non-existent, discrimination to withhold the resumption of billing practices in place before Aqua acquired the respective sewer systems.

II. STATEMENT OF THE CASE

On November 8, 2022, Aqua filed Supplement No. 2 to become effective on January 7, 2023. As proposed, Supplement No. 2 revises language concerning the use of secondary water

meters to deduct flow not actually being conveyed to the wastewater system acquired by wastewater customers in Rate Zones 7, 10, and 12.¹

On or about December 16, 2022, Aqua customer Richard Adams filed a formal complaint protesting proposed Supplement No. 2 (hereinafter referred to as the “Complaint”). In his Complaint, Adams charged, verbatim, that:

...The propose language allows Aqua to not accept a deduct water meter reading for water usage that does not go to Aqua Pennsylvania Wastewater treatment facilities. Only those customers that prior to the sale of municipally owned waste water piping are able to avoid being charged if they have a second water meter and they provide the reading to Aqua. Current customer’s if this tariff is approved will be bared in the future if they want to have a second water meter and will have to pay Aqua Pennsylvania Waste Water for a service that is not being provided. Everyone must be aware that this very discriminatory grandfathering wordage MUST NOT be allowed to exist now or in any other filings in the future. Anyone filling an above ground swimming pool that is drained in the fall and reassembled with water in the early summer as well as just topping off a pool due to evaporation, irrigation and any other known types of usage should not have to pay this fraudulent charge.

Complaint. Adams also alleged that “[t]his for Rate Zone 7 Limerick Township, Rate Zone 10 East Norriton Township and Rate Zone 12 Lower Makefield Township has a very large financial affect [sic], and is extremely discriminatory both now and into the future.” Id.

On or about January 25, 2023, the Township filed a Petition to Intervene with the Commission in the instant proceedings. On or about February 3, 2023, the Township’s Petition was granted. Intervenor is a township of the second class organized and operated pursuant to the Act of May 1, 1933, P.L. 103, No. 69, 53 P.S. §§65101-67201, as amended, also known as the “Second Class Township Code.” The Township “fully supports the Proposed Tariff Supplement as submitted by Aqua, seeks the implementation of same at the earliest moment possible, and,

¹ 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. 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.

furthermore supports approval of deductions, credits, and/or exemptions to any past, present and future residential secondary water meter holders.” Petition to Intervene, at ¶24.

III. SUMMARY OF THE ARGUMENT

In this proceeding, Adams seeks the rejection of Aqua’s Proposed Tariff Supplement, which is designed to reinstate a billing practice employed for years by the Township and other municipalities to provide relief to ratepayers who, at their own cost, installed a secondary water meter to measure water not being returned to Township’s sewer system.

Complainant makes vague allegations of discrimination that ultimately the Township perceives to be a claim that the Proposed Tariff Supplement is a “discrimination in rate.” See, N.T. 2/23/2023, at 89. At this stage in the proceedings, Adams’ position appears to be that “no one be denied now or ever the right to control their cost by being denied what others now have, to control their cost because of a cutoff date ‘grandfather clause’. No one should have to pay a waste water charge if they want to provide a meter reading for usage that does not go to a waste water company.” Complaint.

While the Township shares Adams’ sentiment that all ratepayers who pay for secondary meters and thereby can demonstrate that a certain portion of their water usage is not entering Aqua’s sewer systems should receive a credit, it does not believe Adams has established that APW’s limiting the credit to those customers who had previously applied for a credit through prior municipal sewer owners is discriminatory.

IV. ARGUMENT

Preliminarily, the Township observes that the Proposed Tariff Supplement is a voluntary change in rate pursuant to Section 1308 of the Public Utility Code. See generally, 66 Pa.C.S. §1308. Section 1308’s general rule provides:

Unless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after 60 days notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The public utility shall also give such notice of the proposed changes to other interested persons as the commission in its discretion may direct. Such notices regarding the proposed changes which are provided to the utility's customers shall be in plain understandable language as the commission shall prescribe. All proposed changes shall be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time. The commission, for good cause shown, may allow changes in rates, without requiring the 60 days notice, under such conditions as it may prescribe.

66 Pa.C.S. §1308(a). Section 1308 further provides that:

Whenever there is filed with the commission by any public utility any tariff stating a new rate, the commission may, either upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, and pending such hearing and the decision thereon, the commission, upon filing with such tariff and delivering to the public utility affected thereby a statement in writing of its reasons therefor, may, at any time before it becomes effective, suspend the operation of such rate for a period not longer than six months from the time such rate would otherwise become effective, and an additional period of not more than three months pending such decision. The rate in force when the tariff stating the new rate was filed shall continue in force during the period of suspension, unless the commission shall establish a temporary rate as authorized in section 1310 (relating to temporary rates). The commission shall consider the effect of such suspension in finally determining and prescribing the rates to be thereafter charged and collected by such public utility. This subsection shall not apply to any tariff stating a new rate which constitutes a general rate increase as defined in subsection (d).

66 Pa.C.S. §1308(b). “If, after such hearing, the commission finds any such rate to be unjust or unreasonable, or in anywise in violation of law, the commission shall determine the just and reasonable rate to be charged or applied by the public utility for the service in question, and shall fix the same by order to be served upon the public utility and such rate shall thereafter be observed until changed as provided by this part.” 66 Pa.C.S. §1308(c).

On its face, the Proposed Tariff Supplement does not impose a rate increase upon Complainant or any other Aqua ratepayer. See generally, Supplement No. 2. In fact, Supplement

No. 2 provides that eligible customers will not be required to pay for drinking water use that is not conveyed or treated by APW in its wastewater system. See generally, Id. In other words, the Proposed Tariff Supplement is a decrease in rates for a specific set of customers. Specifically, Supplement No. 2 is designed to apply to customers who, at their own cost and expense, obtained secondary water meters to measure water obtained from their water providers for uses that would not result in the water being sent through three of Aqua's recently acquired sewer systems for treatment.

Complainant Richard Adams levies bald accusations that Proposed Tariff Supplement constitutes unlawful discrimination. See generally, Complaint; see also generally, N.T. 2/23/2023, at 37-39, 89-90, 112. The Township perceives that Adams believes discrimination exists under the assumption that Proposed Tariff Supplement forever denies any future property owners, subsequent to Aqua's acquisition of the local sewer system, from obtaining relief where they are not putting water into said sewer system. See generally, Id. As noted throughout its Main Brief, the Township agrees with Complainant's sentiment that the relief proposed to be provided under Supplement No. 2 should remain open for other ratepayers who install secondary water meters to measure water not being discharged into APW's sewer system, it can discern no discrimination or other basis to prevent the implementation of the Proposed Tariff Supplement and the provision of relief to customers who previously had a waiver when the Township owned the sewer system.

The Public Utility Code proscribes discrimination in rates charged to ratepayers. In particular, Section 1304 mandates that:

No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. Unless specifically authorized by the commission, no public utility shall make,

demand, or receive any greater rate in the aggregate for the transportation of passengers or property of the same class, or for the transmission of any message or conversation for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or any greater rate as a through rate than the aggregate of the intermediate rates. This section does not prohibit the establishment of reasonable zone or group systems, or classifications of rates or, in the case of common carriers, the issuance of excursion, commutation, or other special tickets at special rates, or the granting of nontransferable free passes, or passes at a discount to any officer, employee, or pensioner of such common carrier. No rate charged by a municipality for any public utility service rendered or furnished beyond its corporate limits shall be considered unjustly discriminatory solely by reason of the fact that a different rate is charged for a similar service within its corporate limits.

66 Pa.C.S. §1304.

As noted, supra, The Commonwealth Court has further observed that “[i]t must first be noted that not all differences in rates are discriminatory and, therefore, unlawful. Only unreasonable differences are prohibited.” Philadelphia Elec. Co. 470 A.2d at 657 (Pa. Commw. Ct. 1984) (citations omitted).

Furthermore:

Before a rate can be declared unduly preferential and therefore unlawful, it is essential that there be not only an advantage to one, but a resulting injury to another. Such an injury may arise from collecting from one more than a reasonable rate to him in order to make up for inadequate rates charged to another, or because of a lower rate to one of two patrons who are competitors in business. There must be an advantage to one at the expense of the other.

Id.

Adams failed to prove that any disparate rates are unreasonable and discriminatory. Indeed, some customers in Lower Makefield, and elsewhere, will receive a credit that he will not, at least at the present time. Instead, the Proposed Tariff Supplement merely restores a billing practice in place in Lower Makefield, as well as two other municipalities, that was in place to avoid charging ratepayers for water not treated by the Township as it was not discharged into the then-Township owned sewer system.

In this vein, Complainant fails to demonstrate an injury caused by the Proposed Tariff Supplement. He has not plead or otherwise asserted that his rates have or would increase under Supplement No. 2. The Township distills the crux of Adams' argument as follows: he is dissatisfied that he is not to be included with the ratepayers who would receive relief on the basis of qualifying for a waiver under a billing policy in place when Lower Makefield owned the sewer system. Adams, who has resided in the Township for more than sixty years and had has a pool at his home for approximately the same amount of time, could have taken advantage of the same billing practice as hundreds of Township ratepayers, who paid to install a secondary water meter, but he elected not to or was unable to do so for the reasons stated in his testimony of February 23, 2023.

Complainant has presented no evidence that he has obtained a secondary water meter or has otherwise taken the same steps as ratepayers who would be benefited by the Proposed Tariff Supplement to document the amount of water used to fill his pool but was not discharged into the sewer system. On the contrary, the Township submits that Adams' argument rests on a speculative foundation that he is harmed, with no substantiation, because under current circumstances he cannot purchase and install a secondary water meter and receive a credit or other relief. This position conveniently ignores the facts of record that Adams never took steps to do so when the program was offered through the Township. Accordingly, the Township respectfully requests that the Complaint be dismissed.

As a final matter, the Township notes that the written testimony of Ms. Feeney and documentation submitted with Supplement No. 2 evidence that Aqua acknowledges an anticipated loss in revenue of \$97,853 by reinstating the billing practices in place in the Township and the two other municipalities. See, Aqua Statement 1 – Direct Testimony of Erin M. Feeney, at 5. Some

of this money is to be recovered by way of an “Administrative Fee;” however, to the points more broadly raised by Complainant, the Township believes this loss of revenue represents funds that paid for water not discharged to Aqua for treatment.


Unlike Complainant, however, the Township does not believe the charges are fraudulent in any way but reflect the practicalities of using metered inflows of water to estimate sewer outflows. With that said, the Township believes that this justifies expanding the coverage of the Proposed Tariff Supplement to prospective ratepayers who go through the time and expense to obtain a permit, equipment, and installation of a secondary water meter to measure water not discharged into Aqua’s sewer system.

V. CONCLUSION

For all the reasons specified in this Main Brief, Intervenor Lower Makefield Township respectfully requests that the Commission approve the Proposed Tariff Supplement in its entirety and extend the exemption provided thereunder to all similarly situated ratepayers, subsequent to Aqua's purchase of the Township's sewer system, who obtain a secondary water meter to measure water not being discharged into Aqua's sewer system.

Respectfully submitted,

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DATE: March 10, 2023

APPENDIX A PROPOSED FINDINGS OF FACT

1. Aqua Pennsylvania Wastewater, Inc. (hereinafter sometimes referred to as “Aqua” or “APW”) is a public utility within the meaning of the Pennsylvania Public Utility Code, 66 Pa.C.S. §101, et seq.
2. On July 12, 2018, the Pennsylvania Public Utility Commission (hereinafter sometimes referred to as the “PUC” or the “Commission”) issued an order approving Aqua’s application to acquire the wastewater assets of Limerick Township. Aqua Statement 1 – Direct Testimony of Erin M. Feeney, at 2.
3. On May 21, 2020, the Commission issued an order approving Aqua’s application to acquire the wastewater assets of East Norriton Township. See, Id.
4. On January 13, 2022, the Commission issued an order approving Aqua’s application to acquire the wastewater assets of Lower Makefield Township. See, Id.
5. On March 4, 2022, Lower Makefield Township (hereinafter referred to as “Intervenor,” “Township,” or “Lower Makefield”) formally sold its sewer system to Aqua. Lower Makefield Township Statement 2 – Direct Testimony of Greg Hucklebridge, at 2.
6. On March 5, 2022, Township sewer operations transferred to APW. Id.
7. Prior to Aqua’s purchase of the three sewer systems, each of the townships had a program where customers, at their own expense, would install a secondary water meter on their water line that measured water usage for a pool or irrigation. Aqua Statement 1 – Direct Testimony of Erin M. Feeney, at 3.
8. The customers were required to provide readings to their respective townships during a designated time period, usually the spring and summer months, and the townships would apply

a sewer billing deduction for the water measured by the secondary water meter and which did not enter the townships wastewater systems. Id. at 3.

9. Prior to Aqua's acquisition of Lower Makefield's sewer system, a ratepayer paid for sewer usage based on water meter readings from a water utility company (Morrisville Municipal Authority customers or Pennsylvania American Water customers). Lower Makefield Township Statement 2 – Direct Testimony of Greg Hucklebridge, at 3.
10. A property owner would request a waiver so they would not be charged for sewer usage when the water was not going into the sewer system. Only properties utilizing public sewer and public water would potentially be interested in a waiver. Id. at 6.
11. An approved property connected to the Lower Makefield Sewer System would hook up a second water meter to a water pipe leading outside of the home where the water would be used for functions, such as irrigation, filling a pool, or washing a car, and not go into the sewer system. Id.
12. This meter would need to be installed by a licensed plumber with a permit through the Township's Planning and Zoning Department (now renamed Community Development Department). Id.
13. The property owner or ratepayer was responsible for the cost to procure and install the second meter, obtain the necessary permits, have it installed by a licensed plumber, and submit the pictures of the readings annually for consideration. Id. at 7.
14. Once a property was approved for a waiver, the property owner or ratepayer would then be responsible to send a picture of the meter reading in on an annual basis. These readings would then be used to determine the amount of usage which did not go into the public sewer and this

amount would then be discounted on the next sewer bill for that property. The Township would grant and process these requests. Id.

15. Approximately 500 accounts received a waiver from sewer charges prior to the sale of the Sewer System with approximately 300-350 of those accounts actively participating to receive credits. Id. at 6.

16. The Lower Makefield waiver program existed starting no later than 2017. See, N.T. 2/23/2023, at 107-08.

17. The Township's waiver program was publicized on the Township's website during the time the Township owned the sewer system, and the general public also was aware through word of mouth. Id.

18. Complainant had a computer and had access to the Township website. Id. at 75-76.

19. Lower Makefield has secondary water meters for the Township Pool Complex's four pools and the Township-owned Makefield Highlands Golf Course for irrigation purposes. Lower Makefield Township Statement 2 – Direct Testimony of Greg Hucklebridge, at 7.

20. At the start of each pool season, the Township fills the four pools at the complex with a total of 725,171 gallons of water. Lower Makefield Township Statement 1 – Direct Testimony of James Majewski, at 7.

21. For 2022, Lower Makefield received 43 permit applications for an inground or an above ground swimming pool. Id.

22. As of February 3, 2023, Lower Makefield has received 4 permit applications for an inground or an above ground swimming pool. Id.

23. On November 8, 2022, Aqua filed Supplement No. 2 to Tariff Sewer-PA P.U.C. No. 3 (hereinafter referred to as “Supplement No. 2” or “Proposed Tariff Supplement”) to become effective on January 7, 2023.
24. The Proposed Tariff Supplement would permit customers who previously owned and installed a secondary water meter to receive a sewer billing deduction for the measured water consumption that is used but does not enter the Aqua’s wastewater system as previously provided for by the three townships. Aqua Statement 1 – Direct Testimony of Erin M. Feeney, at 2-3.
25. As a result of the Proposed Tariff Supplement, Aqua anticipates there will be a reduction in revenue of \$97,853 as a result of the deducted volume and a miscellaneous revenue increase of \$41,600, which would be collected by way of an Administrative Fee for a net decrease in its annual income of \$56,253. Id. at 5.
26. Under Supplement No. 2, Aqua is incorporating an existing practice from three wastewater systems it has acquired. Aqua Statement 1-R – Rebuttal Testimony of Erin M. Feeney, at 3.
27. APW will not incur any additional expenses to install secondary water meters on customer-owned water lines, particularly in areas where Aqua is not the water provider because eligible customers are limited to those that already purchased a secondary meter at their own expense. See, Id.
28. On or about December 16, 2022, Aqua customer Richard Adams (hereinafter referred to as “Complainant” or “Adams”) filed a formal complaint protesting proposed Supplement No. 2.
29. Adams has had a pool at his Lower Makefield residence since 1961. N.T. 2/23/2023, at 65,
30. Complainant paid for wastewater service while he was a customer of Lower Makefield during the Township’s ownership of the sewer system. Id. at 65-66.

31. Since having his pool installed, Adams has had to have his pool drained roughly every twenty years when replacing the pool liner. See, Id. at 66.
32. While natural rainfall often ensured that the pool had sufficient water in the periods between liner replacement, Adams did add water to his pool during the spring and fall. See generally, Id. at 66-68.
33. Despite the waiver for a secondary meter existing for years prior to Aqua's purchase and Adams having access to the Township website, Complainant did not take any steps to obtain a waiver. See, Id. at 68, 75-76.

APPENDIX B PROPOSED CONCLUSIONS OF LAW

1. Aqua Pennsylvania Wastewater, Inc. is a public utility within the meaning of the Pennsylvania Public Utility Code, 66 Pa.C.S. §101, et seq.
2. Aqua Pennsylvania Wastewater, Inc.’s proposed Supplement No. 2 to Tariff Sewer-PA P.U.C. No. 3 (“Proposed Tariff Supplement”) is not a rate increase under the Public Utility Code.
3. Complainant Richard Adams has failed to meet his burden of proof to demonstrate that the Proposed Tariff Supplement is discriminatory or is otherwise illegal.
4. The Proposed Tariff Supplement is lawful, just, and reasonable.
5. Extending the relief provided under the Proposed Tariff Supplement to present and future ratepayers who obtain, at their own cost, a secondary water meter to measure water not placed into Aqua Pennsylvania Wastewater, Inc’s sewer systems is appropriate.

APPENDIX C PROPOSED ORDERING PARAGRAPHS

It is hereby ORDERED THAT:

1. The Complaint of Richard Adams is Denied and Dismissed.
2. Aqua Pennsylvania Wastewater, Inc.’s proposed Supplement No. 2 to Tariff Sewer-PA P.U.C. No. 3 (“Proposed Tariff Supplement”) is found to be lawful, just, and reasonable.
3. The undersigned formally recommends the reinstatement and/or implementation of the Proposed Tariff Supplement at the earliest possible time.
4. The undersigned further recommends that the credit provided under the Proposed Tariff Supplement be extended to any ratepayer in Rate Zones 7, 10, and 12 who installs a secondary water meter to measure water not entering Aqua’s sewer system.

Date: _____

Darlene Heep
Administrative Law Judge

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.


CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Main Brief of Intervenor Lower Makefield Township upon the parties and persons, listed below, in accordance with the requirements of §1.54 via overnight mail and electronic mail.

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Complainant, *pro se*

Date: March 10, 2023

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