



Via Electronic Filing

March 10, 2023

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

RE: ***PA PUC v. Aqua Pennsylvania Wastewater, Inc.***
PUC Docket No. R-2022-3036634

Richard Adams v. Aqua Pennsylvania Wastewater, Inc.
PUC Docket No. C-2022-3037266

Dear Secretary Chiavetta:

Enclosed for filing, please find Main Brief of Aqua Pennsylvania, Wastewater Inc. (Aqua) in the above-captioned proceeding.

A copy of the Answer has been served upon the parties, as evidenced by the enclosed Certificate of Service.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary McFall Hopper".

Mary McFall Hopper
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(610) 645-1170

Enclosure

cc: Honorable Darlene Heep
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PA PUC v. AQUA PENNSYLVANIA WATERWATER, INC.	:	DOCKET NO: R-2022-3036634
	:	
v.	:	
	:	
RICHARD ADAMS v. AQUA PENNSYLVANIA WASTEWATER, INC.	:	DOCKET NO: C-2022-3037266
	:	

CERTIFICATE OF SERVICE

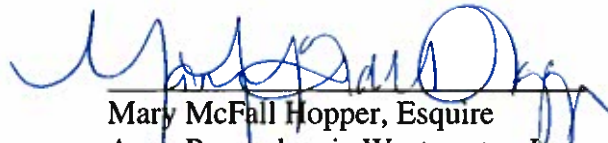
I hereby certify that I have this day served a true copy of the Main Brief of Aqua Pennsylvania Wastewater, Inc. upon the persons and in the manner set forth below:

Via Email and Overnight Mail

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Dated: March 10, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3036634
v.	:	
Aqua Pennsylvania Wastewater, Inc.	:	
	:	
Richard Adams	:	
v.	:	
Aqua Pennsylvania Wastewater, Inc.	:	C-2022-3037266

**MAIN BRIEF OF
AQUA PENNSYLVANIA WASTEWATER, INC.**

Date: March 10, 2023

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I. STATEMENT OF THE CASE

This proceeding concerns the request of Aqua Pennsylvania Wastewater, Inc. (“Aqua” or “Company”), filed with the Public Utility Commission (“Commission”) on November 8, 2022, pursuant to Section 1308(b) the Public Utility Code (“Code”) for approval of Supplement No. 2 to Tariff Sewer- PA P.U.C. No. 3 (“Proposed Tariff Supplement”). The Proposed Tariff Supplement revises language concerning the use of secondary water meters (“deduct meters”) for acquired wastewater customers in Limerick Township, East Norriton Township and Lower Makefield Township (“Townships”). The Proposed Tariff Supplement filing included all the information required by 52 Pa. Code §53.52(a) and (b). In addition, the Company served the appropriate parties as required by 66 Pa.C.S. §1308(a); 52 Pa. Code §53.51(d). Prior to the acquisition by Aqua, the Townships offered a secondary meter (“deduct meter”) program for residents. The Proposed Tariff Supplement allows customers who previously owned and installed a deduct meter, prior to the acquisition by Aqua, to receive a sewer billing deduction for the measured water consumption that is used but does not enter the Company’s wastewater systems as previously provided for by the Townships. The record evidence in this proceeding supports the approval of the Proposed Tariff Supplement.

II. BURDEN OF PROOF

Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. §332(a), the Company has the burden of proof in this proceeding as to Supplement No. 2. The burden of proof for actions before the Commission is the “preponderance of the evidence” standard. *Suber v. Pennsylvania Com 'n on Crime and Delinquency*, 885 A.2d 678, 682 (Pa. Cmwlth. 2005) (*Suber*), *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc, denied*, 529 Pa. 654, 602 A.2d 863 (1992) (*Lansberry*). To establish a fact or claim by a preponderance of the evidence

means to offer the greater weight of the evidence, or evidence that outweighs, or is more convincing than, by even the smallest amount, the probative value of the evidence presented by the other party. See *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 48-49, 70 A.2d 854, 855 (1950).

Adjudications by the Commission must be supported by substantial evidence in the record. 2 Pa. C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217 (1983). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. Of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Comm. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

III. STATEMENT OF THE QUESTION INVOLVED

Question: Is Aqua's Proposed Tariff Supplement just and reasonable, permissible under the Code and not discriminatory in rates or service?

Suggested Answer: Yes. The Company fully complied with the requirements under 52 Pa Code §53.52(a) and (b) and the information provided established that the Proposed Tariff Supplement is just and reasonable, permissible under the Code and is not discriminatory in rates or service.

IV. SUMMARY OF ARGUMENT

The Company filed the Proposed Tariff Supplement for customers acquired from the Townships who had previously installed deduct meters, at their own expense, and their bill reflected a deduction to their sewer bills prior to their acquisition by the Company. The Company,

upon request from affected customers and Townships, is proposing to incorporate this practice in its tariff. The Company's existing approved wastewater tariff permits the use of previously purchased deduct meters for acquired customers in for Cheltenham Township and East Whiteland Township. The Company complied with the Commission's regulations in filing this voluntary change in rates, including the notice requirements. The Company served the Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA") and the Commission's Bureau of Investigation and Enforcement ("I&E") (together the "Statutory Advocates"). The Company also served the Commission's Bureau of Technical Utility Services ("TUS"). No further notice requirements were issued by the Commission.

The Company's Proposed Tariff is not discriminatory or prohibited by the Code. The Company is incorporating an existing practice from three acquired wastewater systems which is consistent with recent filings under Section 1329 of the Code where the Commission has required the Company to adopt existing deduct programs of the acquired municipality. (Aqua Statement No. 1, p. 4).

The Proposed Tariff Supplement is limited in scope to customers in the Townships who, prior to the acquisition by Aqua, had purchased a secondary meter at their own expense in compliance with the Townships' programs and who wish to continue to have a deduction from their bill for usage from their deduct meter. Any consideration to expand the program beyond this limited group of customers is more appropriately addressed in a rate case proceeding where the Company could address any impacts to rate base, revenue and expense. The Proposed Tariff Supplement does not include any changes to the Company's rates and will have no effect on the service rendered by the Company. The Proposed Tariff Supplement included an administrative fee

for those eligible customers who choose to continue receiving a credit. (Aqua Statement No. 1-R, p 2; EMF 1-R Exhibit 1, p. 3).

The Company fully complied with the Commission's filing and notice requirements and its Proposed Tariff Supplement is permissible under the Code and is not discriminatory in rates or service.

V. ARGUMENT

The Company filed the Proposed Tariff Supplement to allow customers acquired from the Townships who had previously installed deduct meters, at their own expense, to have their bills include a deduction to their sewer bills. This was permitted by the Townships prior to their acquisition by the Company. The Company, upon request from the affected customers and Townships, is proposing to incorporate the previous practice used by the Townships. The Code and the Commission's regulations permit utilities to file for a voluntary request to change rates. 66 Pa. C.S. §1308(a); 52 Pa. Code §53.52(a) and (b). The Company must provide certain information to support its request, such as the reason for the change, the number of customers served by the utility as well as the number of customers whose bills would be affected by the change. The Company must also provide the direct or indirect effect of the proposed change on the Company's revenue and expenses and the effect of the change on the service rendered by the utility. The Company Proposed Tariff Supplement includes all the required information and proof of service to the required parties. (Aqua Statement No. 1-R, EMF 1-R Exhibit 1).

The Complainant alleges that the Company should be required to notify all customers of the Proposed Tariff Changes and that the Commission issue a ruling requiring Aqua to not discriminate in rates or service. (Richard Adams Statement No. 1, p. 1)¹.

The Company fully complied with the requirements under 52 Pa Code §53.52(a) and (b) and the information provided established that the Proposed Tariff Supplement is just and reasonable, permissible under the Code and is not discriminatory in rates or service.

A. Notice

Ms. Feeney testified on behalf of the Company that the Proposed Tariff Supplement is a voluntary change in rates and the notice requirements for this type of filing do not require a general notice to be issued. Section 1308(a) of the Code requires that the utility shall notify the Commission and “give such notice of the proposed changes to other interest persons as the Commission in its discretion may direct.” The Commission’s regulations further clarify the notice requirements providing that the utility “shall service a copy of the rate change and supporting data required by this chapter upon the Office of Consumer Advocate.” 52 Pa. Code §52.51(d). The Company’s November 8, 2022 filing of the Proposed Tariff Supplement was served upon the Statutory Advocates and TUS. (Aqua Statement No. 1-5, EMF 1-R, Exhibit 1). None of the Statutory Advocates or TUS intervened in this proceeding. The Commission did not issue any directive that the Proposed Tariff Supplement be noticed to any other interested parties. In addition, in recent Company filings for a voluntary change in its tariff the Company was not required to mail a notice to all its customers. Ms. Feeney testified that the Company’s Lead Service Line Replacement Program in Supplement No. 12 to Tariff- Water PA P.U.C. No. 2 and the

¹ Complainant also raised the issue of requiring the Company to provide metering to flat rate customers. The ALJ granted Aqua’s motion that this was outside the scope of the proceeding and the ALJ sustained the Company’s objections and the relevant portions of Richard Adams Statement No. 1. (Tr 63, 114).

addition of a 12" meter rate Supplement No. 4 to Tariff Water PA P.U.C. No. 2 did not require notice to Aqua's entire customer base. (Aqua Statement No. 1-R, p. 2). In fact, the Complainant admitted in his testimony that the Company did provide the appropriate notice required by the Commission, however, but he testified that he thought more notice should be required. (Tr 54). The Complainant's assertion, personal opinion or perception does not constitute evidence. *Mid-Atlantic Power Supply Ass'n v. Pa PUC*, 746 A.2d 1106, 1200 (Pa. Cmwlth. 2000). *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (1987) Even a *pro se* complainant must provide relevant and necessary information. *Groch v. Unemployment Comp. Bd. of Review*, 472 A.2d 286 (Pa. Cmwlth, 1984); *Vann v. Unemployment Comp. Bd. of Review*, 494 A,2d 1081 (Pa. 1985).

B. Discrimination in Rates or Service

The Proposed Tariff Supplement is not discriminatory in rates or service and is not prohibited by the Code which does not require every rate zone to be exactly the same. It is not discriminatory as long as "the differential can be justified." *Lloyd v. Pennsylvania Public Utility Commission* 904 A.2d 1010, 1020 (2006); *Pettko v. Pennsylvania American Water Co*, (Docket No. C-2011-2226096, Opinion and Order issued February 28, 2013). In this particular instance, the differential can be justified. Rate Zones 7 (Limerick), 10 (East Norriton) and 12 (Lower Makefield) differ from other Company rate zones by nature of the Commission-approved acquisitions of the municipalities and the rates in place at the time they were acquired. The Company is incorporating an existing practice from three wastewater systems it has acquired. By limiting the eligible customers to those in these three rate zones that already purchased a deduct meter at their own expense, and installed on their own water lines, the Company will not incur any additional expenses to install deduct meters on customer-owned water line, particularly in areas

where Aqua is not the water provider. The Proposed Tariff Supplement includes an administration fee that eligible customers will have to pay to cover the costs of participating the deduct meter program. (Aqua Statement No. 1-R, EMF 1-R Exhibit 1). For the reasons stated above, the Proposed Tariff Supplement is not discriminatory and any differences to other Company rate zones are legally justified.

The inclusion of secondary meters from acquired systems is consistent with recent filings under Section 1329 (66 Pa. C.S. §1329) where the Commission has required the Company to adopt existing deduct programs of the acquired municipalities. Aqua's wastewater tariff currently has two rate zones (Cheltenham and East Whiteland) where deduct meters for customers who had participated in their township's deduct program are permitted. (Tr. 115).

Under Pennsylvania law, tariff provisions that have been properly submitted to and approved by the Commission are *prima facie* reasonable. *Zucker v. Pa PUC*, 401 A.2d 1377 (Pa. Cmwlth. Ct. 1979); *Shenango Twp. Bd of Supervisors v. Pa. PUC*, 686 A.2d 910, 914 (Pa. Cmwlth. Ct. 1966); *Kossmann v. Pa. PUC*, 694 A.2d 1147, 1151 (Pa. Cmwlth. Ct. 1997). The Commission has approved the Company's tariff with respect to the limited scope of the use of deduct meters for acquired customers in Cheltenham and East Whiteland. Therefore, the inclusion of this practice is therefore deemed just and reasonable and not discriminatory. This is the same situation that is included in the Proposed Tariff Supplement for customers in Rate Zones 7, 10 and 12.

The Complainant argues that the Company should be required to offer the use of deduct meters for all customers, not just those who had a deduct meter prior to becoming Aqua customers.²

² The Complainant states that he had filed "for all the active customers in the three rate zones quoted in [the Company's] filing of a rate change and any other rate zones, as well as any other filing in the future" (Tr. 36). The Complainant cannot assert a claim on behalf of all customers. Mere conjecture about possible future harm does not confer a direct interest in the subject matter of a proceeding. *Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board*, 467 A.2d 311 (Pa. 1983).

The Proposed Tariff Supplement is limited in scope to customers in the three particular rate zones, who, prior to the acquisition by Aqua, had purchased a secondary meter at their own expense in compliance with the Townships' program and who wish to continue to have the deduction from their bill for the usage from the secondary meter. Any considerations to expand the program beyond this limited group of customers is more appropriately addressed in a future base rate case proceeding where the Company can address any impacts to rate base, revenue and expenses in order to facilitate a possible expansion of the program in these three rate zones and/or a full-scale deduct metering programs. (Aqua Statement No. 1-R, p. 4).

The Complainant is the only customer who has filed an objection to the Proposed Tariff Supplement. In contrast, the Company has received twenty-four (24) complaints, including both informal complaints filed with the Commission's Bureau of Consumer Services and formal complaints filed with the Commission Secretary requesting that the Commission require Aqua to honor the use of their deduct meters. (Aqua Statement No. 1-R, p. 3, EMR 1-R Exhibit 2).

Lower Makefield supports the Proposed Tariff Supplement and petitioned to intervene in this proceeding. Lower Makefield has not argued that the Proposed Tariff Supplement is discriminatory in rates or service. Lower Makefield supports the Proposed Tariff Supplement but has requested that it apply to future requests from customers for residential secondary water meters. (LMT Statement No. 2, p. 4). As explained above, the Proposed Tariff Supplement is exclusively applicable only to customers who had purchased a secondary water/deduct water meter prior to being acquired by the Company. Any future expansion of the used of deduct meters is more appropriate considered in the context of a general base rate proceeding.

Complainant alleges that he is paying for service that he does not receive and that the Company is defrauding him. (Tr. 56). Complainant claims that he never received notice from the

Lower Makefield that a deduct meter was available to the residents of Lower Makefield. To the extent Complainant is arguing that he was unaware of the deduct program prior to the acquisition by Aqua, this issue is not before the Commission in this proceeding. (Tr. 112). Complainant testified that he is a resident of Lower Makefield and has had a pool at his property since approximately 1960 or 1961 (Tr. 65). Complainant testified that he keeps a cover on his pool and that he did not know deduct meters were available from Lower Makefield. Representatives from Lower Makefield testified that its deduct metering program was a long standing program available to its residents for a number of years. Although neither representative could recall the exact time frame the program started they both testified that it has been in existence since at least 2017 (Tr. 101, 107). Lower Makefield witness Hucklebridge testified that the information on the deduct program was publicly available on the Township's website. (Tr.107). Complainant admitted that he did have access to the Lower Makefield website (Tr 76) so this information was available to Complainant. Complainant states he "may" have decided to purchase a deduct meter prior to the acquisition by Aqua but he also testified that his usage of water for his pool was limited. Although he testified that he may have to add water to his pool due to evaporation, that he has to drain and refill the pool approximately every 20 years, he did not provide any evidence to the amount of this usage. (Tr. 66).

The Complainant also testified that he has seen an increase in his bill since he has been an Aqua customer. Upon further questioning the Complainant acknowledged that his rates have not changed since Aqua's acquisition of the Lower Makefield system. (Tr. 67). Witness Feeney confirmed that Company adopted the rates charged by Lower Makefield. (Tr. 93) Therefore, Complainant is being charged the same rates he had been when he was a customer of Lower Makefield, and his wastewater bill was, and still is, based on water readings from his water

supplier, Pennsylvania American Water. (Tr. 66-67). Ms. Feeney also testified that it is a common industry practice to charge the consumption part of a sewer bills based on the water used by a customer. (Tr. 93) The Complainant agreed that he was aware that it is standard rate-making to use water readings as a basis for wastewater bills but that he does not agree that is the way it should be done. (Tr. 71) He also acknowledges that bills for wastewater service is based on water meter readings and that the Commission reviews and approves a utility's rate design in a base rate case proceeding. (Tr. 71). Complainant's opinion that the rates are unjust and unreasonable does not constitute evidence. *Hersca v. Twin Lakes Utilities, Inc.* Docket No. C-2020-3020883, (Opinion and Order issued August 5, 2021).

The Proposed Tariff Supplement will not have an impact to rates at this time. The Company anticipates there will be reduction in revenue of \$97,853 as a result of the deduct 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 meters. Any future rate design impacts on the Company's customers will be considered in the Company's next base rate case proceeding. (EMF 1-R Exhibit 1).

In order for the Complainant to succeed in a claim of unlawful rate discrimination, he must demonstrate that certain customers are paying an unreasonably high rate in order to make up a deficiency created by unreasonably low rates charged to other customers. See *Building Owners and Managers Assoc. Pa.P.U.C.*, 79 Pa. Commonwealth Ct. 598, 608, 470 A.2d 1092, 1096 (1984)

In this proceeding there is no change to the rates charged to the Company's customers. There will be a modest reduction in the revenues the Company receives but it is making no claim to increase rates and Complainant has not demonstrated that certain customers are paying an

unreasonably high rate in order to make up a deficiency created by lower rates charged to other customers.

There is no record evidence to support the Complainant's position that the Proposed Tariff Supplement should not be approved. The Complainant's assertions, his personal opinions or perceptions do not constitute evidence. *Mid-Atlantic Power Supply Ass'n v Pa. PUC*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000). Personal opinion, no matter how strongly held, does not constitute evidence. *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987). Even a *pro se* complainant must provide relevant and necessary information. *Groch v. Unemployment Comp. Bd. of Review*, 472 A.2d 286 (Pa. Cmwlth. 1984); *Vann v. Unemployment Comp. Bd. of Review*, 494 A.2d 1081 (Pa. 1985). Other than opinion testimony, the Complainant presented no evidence. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. PA Public Utility Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa. Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

The record evidence in this proceeding, as described above, clearly establishes that the Proposed Tariff Supplement is reasonable, is not discriminatory in rates or service and should be approved.

VI. PROPOSED FINDINGS OF FACT

1. On November 8, 2022, of Aqua Pennsylvania Wastewater, Inc. ("Aqua" or "Company"), filed with the Public Utility Commission ("Commission") pursuant to Section 1308(b) of the Public Utility Code ("Code") for approval of Supplement No. 2 to Tariff Sewer-PA P.U.C. No. 3 ("Proposed Tariff Supplement"). (EMR 1-R Exhibit 2).

2. The Proposed Tariff Supplement was filed to revise language concerning the use of secondary water meters for acquired wastewater customers in Limerick Township, East Norriton Township and Lower Makefield Township (“Townships”). Prior to the acquisition by Aqua, the Townships offered a secondary meter (“deduct meter) program for residents. (EMR 1-R Exhibit 2).

3. The Commission issued orders approving Aqua’s application to acquire the wastewater assets of Limerick Township on July 12, 2018, East Norriton Township on May 21, 2020 and Lower Makefield Township on January 13, 2022. (Aqua Statement No.1, p. 2).

4. The Proposed Tariff Supplement allows customers who previously owned and installed a deduct meter to receive a sewer billing deduction for the measured water consumption that is used but does not enter the Company’s wastewater systems as previously provided for by the Townships. (Aqua Statement No. 1, p. 3).

5. Customers acquired from the Townships had previously installed deduct meters 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 deduct meter and which did not enter the townships wastewater system. (Aqua Statement No. 1, p. 3).

6. The Company, upon request from affected customers and townships, is proposing to incorporate this practice in its tariff. (Aqua Statement No. 1, p. 3).

7. The Proposed Tariff Supplement is a voluntary change in rates and the notice requirements for this type of filing do not require a general notice to be issued. (66 Pa.C.S. §1308(b); 52 Pa. Code §53.51(d)).

8. None of the Statutory Advocates or TUS filed to be a party in this proceeding. The Commission did not issue any directive that the Proposed Tariff Supplement be noticed to any other interested parties pursuant to Section 1308(a).

9. The Company is incorporating an existing practice from three wastewater systems it has acquired. By limiting the eligible customers to those that already purchased a deduct meter at their own expense, and installed on their own water lines, in these three rate zones, the Company will not incur any additional expenses to install deduct meters on customer-owned water line, particularly in areas where Aqua is not the water provider. (Aqua Statement No. 1, p. 3).

10. The Proposed Tariff Supplement includes an administration fee that eligible customers will have to pay to cover the costs of participating the deduct meter program. (Aqua Statement No. 1, p. 5, EMF 1-R, Exhibit 1).

11. The inclusion of secondary meters from acquired systems is consistent with recent filings under Section 1329 where the Commission has required the Company to adopt existing deduct programs of the acquired municipalities. (Aqua Statement No. 1, p. 4).

12. Aqua's wastewater tariff currently has two rate zones (Cheltenham and East Whiteland) where deduct meters for customers who had participated in their township's deduct program are permitted. (Tr. 115).

13. The Proposed Tariff Supplement is limited in scope to customers in the three particular rate zones, who, prior to the acquisition by Aqua, had purchased a secondary meter at their own expense in compliance with the Townships' program and who wish to continue to have the deduction from their bill for the usage from the secondary meter. (Aqua Statement 1-R, p. 4).

14. Any considerations to expand the program beyond this limited group of customers is more appropriately addressed in a future base rate case proceeding where the Company can

address any impacts to rate base, revenue and expenses in order to facilitate a possible expansion of the program in these three rate zones and/or a full-scale deduct metering programs. (Aqua Statement 1-R, p. 4).

15. The Complainant is the only customer who has filed to object to the Proposed Tariff Supplement, the Company has received numerous complaints both informal complaints filed with the Commission's Bureau of Consumer Services and formal complaints filed with the Commission Secretary requesting that the Commission require Aqua to honor the use of their deduct meters. (Aqua Statement No. 1-R, EMR 1-4 Exhibit 2).

16. Complainant is being charged the same rates he had been when he was a customer of Lower Makefield, and his wastewater bill was based on water readings from his water supplier, Pennsylvania American Water. (Tr. 66-67).

VII. PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. §§ 102, 701, 1501.

2. The burden of proof, also known as the burden of persuasion, means, a duty of establish a fact by a preponderance of the evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

3. The burden of proof must be shown by a preponderance of the evidence, which is more convincing, by even the smallest amount, than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 134 Pa.Cmwlth. 218; 221-222, 578 A.2d 600; 602 (1990), app. denied, 529 Pa. 654, 602 A.2d 863 (1992); and *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

4. Assertions, personal opinions or perceptions do not constitute evidence. *Mid-Atlantic Power Supply Ass'n v. Pa PUC*, 746 A.2d 10156, 1200 (Pa. Cmwth. 2000); *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

5. The Company has met its burden of proof.

6. The information provided by the Company under 52 Pa. Code §53.52(a) and (b) is just and reasonable.

7. Supplement No 2., as proposed by the Company, is approved.

VIII. PROPOSED ORDERING PARAGRAPHS

1. That the Proposed Tariff Supplement is approved.

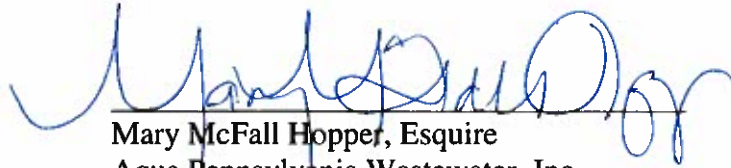
2. That the Complaint filed by Richard Adams at Docket No. R-2022-3036634 and C-2022-3037266 is denied.

IX. CONCLUSION

For all the reasons states above, Aqua Pennsylvania Wastewater, Inc. respectfully requests that Administrative Law Judge Darlene Heep and the Pennsylvania Public Utility Commission approve Supplement No. 2 without modification and dismiss with prejudice the Formal Complaint filed in this proceeding in its entirety.

Respectfully submitted,

Date: March 10, 2023



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