

March 15, 2023

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket Nos. C-2022-3036893 and C-2022-3037118
SCH USA, LLC v. Aqua Pennsylvania Wastewater, Inc.
Prehearing Conference Memorandum of Aqua**

Dear Secretary Chiavetta:

Attached for filing is the Prehearing Conference Memorandum of Aqua Pennsylvania Wastewater, Inc. in the above-referenced and consolidated proceeding.

A copy of the Prehearing Conference Memorandum has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP


Margaret A. Morris

MAM/co
Enclosure

cc: The Hon. John Coogan, PA Public Utility Commission [w/encls.]
Mary McFall Hopper, Esquire, Aqua Pennsylvania, Inc. [w/encls.]
Carl R. Shultz, Esquire [w/encls.]
Lauren M. Burge, Esquire [w/encls.]
Bryce R. Beard, Esquire [w/encls.]

**Re: Docket Nos. C-2022-3036893 and C-2022-3037118
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).


Via Electronic Mail

Carl R. Shultz, Esquire
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Lauren M. Burge, Esquire
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Bryce R. Beard, Esquire
bbeard@eckertseamans.com

Dated: March 15, 2023


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCH USA, LLC	:	
	:	Docket No. C-2022-3036893
v.	:	Docket No. C-2022-3037118
	:	
AQUA PENNSYLVANIA WASTEWATER, INC.	:	

**PREHEARING CONFERENCE MEMORANDUM OF
AQUA PENNSYLVANIA WASTEWATER, INC.**

Pursuant to the *Order Converting Hearing to Prehearing Conference* of the Honorable John M. Coogan, dated March 10, 2023, (*Order*) and Commission regulations at 52 Pa. Code § 5.222, Aqua Pennsylvania Wastewater, Inc. (Aqua) submits the following:

(i) *The presently identified issues*

The Complainant has the burden of proof in this consolidated proceeding¹ to show that Aqua is in violation of a law or a Commission regulation that has a discernable effect on the Complainant, over which the Commission has jurisdiction. The Complainant must prove that Aqua violated the Public Utility Code (Code), a Commission regulation or order or Aqua’s Commission-approved Tariff. Aqua reserves the right to address additional issues as they may arise during the proceeding.

The Complainant disputes the calculation of the monthly bill for the four respective accounts arguing that the allocation of Equivalent Dwelling Unit (EDU) that serves the basis for the billed Aqua wastewater charges is “based on a settlement agreement between parties that have no relation to the Complainant or [Aqua].” Compl. ¶5. The rate structure utilized in determining the EDU for each account was pursuant to a Release and Settlement Agreement, dated November 18, 2010, entered into by Vacation Charters LTD, Split Rock Country Club, Inc, Summit Management & Utilities, Inc., (Plaintiffs) and Kidder Township (Defendant). The Complainant is the successor in interest for the Plaintiffs. Aqua is the successor in interest for the Defendant. The

¹ The Complainant’s allegations/requested relief are identical for the four non-residential accounts at issue in this consolidated proceeding.

Commission authorized the purchased the Wastewater System Assets from Kidder Township to Aqua in 2012. Aqua has maintained the same rate structure for EDU allocation.²

The following issues are present in the respective Formal Complaints and should be resolved prior to the scheduling of an evidentiary hearing.

- Does the Commission have the authority under the Code to modify or nullify the Release and Settlement Agreement, entered into by the parties' respective predecessor, which sets forth the agreed upon EDU for each respective account?
- Is a complaint proceeding, pursuant to 66 Pa.C.S. Section 701, the proper forum to challenge Commission-based rates and request a substantial revision to the Commission-approved rate design for Rate Zone 4, i.e., meter wastewater usage?
- Does the Commission have jurisdiction under the Code to alter the Pennsylvania Department of Environmental Protection (DEP) approved 537 Plan for Kidder Township by reducing the number of EDU approved by DEP?
- Is a complaint proceeding, pursuant to 66 Pa.C.S. Section 701, the proper forum to challenge Commission-based rates and request a substantial revision to the Commission-approved rate structure for EDU allocation for Rate Zone 4?
- How does the requested relief, i.e., reduction of the agreed upon EDU for each account billed under Rate Zone 4, impact the Commission authorized rate increase, effective May 19, 2022?
- How does the requested relief, i.e., reduction of the agreed upon EDU for each account billed under the Commission-approved Rate Zone 4, impact other customers taking service under Rate Zone 4?
- Does the Code authorize the Commission to direct a payment arrangement for a non-residential account?

² The respective service locations for the four accounts are located in Kidder Township and are billed pursuant to Aqua's Commission-approved Rate Zone 4 Tariff. The monthly charge, per EDU, is \$100.00.

(ii) The names and addresses of the witnesses

Aqua will offer the following witness but reserves the right to call any additional witnesses as discovery and other matters develop prior to the hearing and based on issues identified by the Complainants in their written direct testimony.

- **Steve Clark**
Greater PA Director of Operations
Aqua Pennsylvania, Inc.
1775 North Main Street
Honesdale PA. 18431

(iii) The proposed area of testimony of each witness

Mr. Clark will present testimony regarding the executed enforceable Release and Settlement Agreement entered into by the parties' respective predecessor, the DEP approved 537 Plan for Kidder Township regarding the DEP's approved EDU allocation, the Commission-approved EDU rate for Rate Zone 4, and the Commission's entered *Opinion and Order* in Aqua's 2021 wastewater rate case³ rejecting the proposal to meter wastewater service.

(iv) Proposed Litigation Schedule

Aqua is agreeable to any reasonable proposed litigation schedule and suggests the following dates should an evidentiary hearing be required:

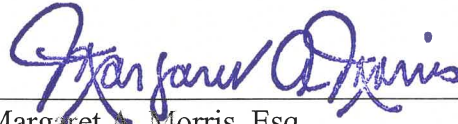
Complainant's Direct Written Testimony ⁴ and Proposed Exhibits	30 days from ruling on Motion in Limine re: PUC issues
Respondent's Direct Written Testimony And Proposed Exhibits	(30 days from Complainant's Direct)
Complainant's Rebuttal Written Testimony	(15 days from Respondent's Direct)
Respondent's Rebuttal Written Testimony	(15 days from Complainant's Rebuttal)
Exchange Proposed Stipulated Facts and Proposed Joint Exhibits	(20 days after Respondent's Rebuttal)
Telephonic Hearing	(15 days from Proposed Stipulated Facts)
Main Briefs	(30 days after receipt of transcript)

³ Docket No. R-2021-3027386 entered May 16, 2022.

⁴ Written prepared testimony shall be substantially in compliance with the Commission's regulations, 52 Pa. Code Chapters 1, 3 and 5, in particular 52 Pa. Code § 5.412(e).

Dated: March 15, 2023

Respectfully submitted,



Margaret A. Morris, Esq.

Attorney ID No. 75048

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