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 2 Pennsylvania Public
 3 Utility Commission,
 4 v.
 5 Aqua Pennsylvania
 6 Wastewater, Inc.,
 7
 8 Initial Call-In
 9 Telephonic Hearing
 10 -----

Docket Nos.: R-2022-3037141
 C-2023-3037579

6 Pages 1 - 37

Judge's Chambers
 Keystone Building
 400 North Street
 Harrisburg, PA

Friday, April 14, 2023
 Commencing at 10:00 a.m.

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Docket Nos. R-2022-3037141/C-2023-3037579

Hearing Date: April 14, 2023

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DOCKET NO. R-2022-3037141

AQUA PENNSYLVANIA WASTEWATER, INC.

**PREPARED DIRECT TESTIMONY OF
ERIN M. FEENEY**

Topics Addressed:

Large Wastewater Customer User Rider

DATE SERVED: March 1, 2023
DATE ADMITTED: _____

Aqua Statement No. 1

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**AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY**

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2 **Q. What is your name and business address?**

3 A. My name is Erin M. Feeney. My business address is 762 W. Lancaster Avenue, Bryn
4 Mawr, Pennsylvania 19010.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by Aqua Pennsylvania, Inc. (“Aqua PA”) as Manager of Rates.

8
9 **Q. On whose behalf are you providing this direct testimony?**

10 A. I am providing this testimony on behalf of Aqua Pennsylvania Wastewater, Inc. (“Aqua”
11 or the “Company”).

12
13 **Q. Please describe your education and business experience.**

14 A. I graduated from La Salle University in 2012 with a Bachelor of Science degree in Business
15 Administration, with a major in Accounting. I have also completed the Utility Rate School
16 course sponsored by the National Association of Regulatory Utility Commissioners.

17 I have been employed by Aqua PA or Aqua Services, Inc. (“Aqua Services”) since
18 2009. Throughout my university education, I worked at Aqua Services part-time in a
19 variety of departments, including Finance Projects, Tax, and Financial Planning and
20 Analysis. Upon graduation, I was hired as a full-time Financial Analyst in the Financial
21 Planning and Analysis (“FP&A”) department, and in 2014 I was promoted to a Financial
22 & Systems Analyst. My duties in the FP&A department included developing, preparing
23 and maintaining financial reports, variance analysis and other financial models while

**AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY**

1 closely supporting the budgeting and long term planning needs of Essential Utilities, Inc.’s
2 (“Essential”) (f/k/a Aqua America, Inc.) subsidiaries. In 2016, I transferred to Aqua PA
3 where I worked in the Rates and Planning Department. I was promoted in 2019 to my
4 current position as Manager of Rates.

5
6 **Q. What are your duties as Manager of Rates?**

7 A. My duties primarily include the preparation of various financial regulatory filings
8 submitted with the Pennsylvania Public Utility Commission (“PUC” or the
9 “Commission”). Those filings include, but are not limited to, the following: Quarterly
10 Earnings Reports, Distribution System Improvement Charge (“DSIC”) Surcharge filings,
11 water and wastewater tariff compliance filings, and other regulatory compliance filings
12 upon request of the PUC. My duties also include the preparation of base rate cases and
13 supporting those applications as a primary accounting witness. I assist the Vice President,
14 Regulatory Accounting and Regional Controller with the oversight and direction of
15 regulatory accounting matters for the Company.

16
17 **Q. What is the purpose of your testimony?**

18 A. The purpose of my testimony is to: (1) identify and describe the proposed establishment of
19 a contract rate for large industrial wastewater customers via a rider; (2) provide an overview
20 of the general rate effects – or lack thereof – if the proposed rider is implemented; and (3)
21 provide an overview of comparable riders implemented by other utilities in the
22 Commonwealth of Pennsylvania.

AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY

1 **Q. For which of the Company's Exhibits are you responsible?**

2 A. I am responsible for Exhibit EF-1, which is a copy of the Tariff reflecting the proposed
3 rider, as filed at Docket No R-2022-3037141 and later revised in response to TUS-I-7.
4

5 **II. PROPOSED RIDER**

6 **Q. Please describe the proposed rider.**

7 A. The proposed rider, titled Rider LWCUR – Large Wastewater Customer User, would
8 institute a rider that would be available to certain qualifying large industrial wastewater
9 customers. The rider defines a Large Wastewater Customer User as an industrial class
10 customer that takes or receives wastewater collection, treatment and/or disposal services
11 that exceeds 85,000 gallons of wastewater per month. In addition to be eligible the
12 customer must:

- 13 1. Discharge wastewater into Aqua Wastewater's collection system resulting
14 from industrial processes;
15
16 2. Enter into a Service Agreement for a term of not less than 3 years; and,
17
18 3. Have a viable competitive alternative to service from the Company and,
19 unless a new rate is established, the customer intends to select that alternative
20 to the detriment of the Company and its customers.
21

22 In addition to 1-3, the Company may consider whether the existing or prospective Large
23 Wastewater Customer User has made or agrees to make a substantial contribution of capital
24 for facilities or facilities themselves to the Company in order to become or remain a
25 customer and whether a customer plans to locate or retain a substantial facility in the
26 Company's existing or applied-for franchise territory that provides substantial economic

AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY

1 development and employment in the immediate local area or Commonwealth of
2 Pennsylvania.

3 Thereafter, the rate to be charged for eligible and interested customers would be
4 negotiated and set forth in a service agreement, will not be less than the minimum rate, and
5 be subject to an escalation clause.

6

7 **Q. Why does the tariff define a Large Wastewater Customer User as discharging more**
8 **than 85,000 gallons per month?**

9 A. The Company reviewed our industrial customer profile and determined that customers who
10 exceeded 1,000,000 gallons of average annual volume (85,000 gal x 12 months = 1,020,000
11 gallons) was an appropriate benchmark.

12

13 **Q. What is the minimum rate?**

14 A. The minimum rate shall be sufficient to recover: (1) variable Wastewater Treatment Cost
15 (e.g., electric power and fuel costs for power production, sludge removal and disposal
16 costs, wastewater conveyance costs, any chemical costs not otherwise covered by any
17 applicable surcharges for Biochemical Oxygen Demand (“BOD”), Total Suspended Solids
18 (“TSS”), etc.); plus (2) the fixed costs (depreciation and pre-tax return) on the facilities
19 necessary to serve the customer; and (3) some portion of the fixed costs of the Company’s
20 wastewater treatment and collection facilities.

21

22

23

AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY

1 **Q. What is the purpose of the minimum rate?**

2 A. The purpose of the minimum rate is to ensure that variable operating and maintenance
3 (“O&M”) costs, and depreciation and return on facilities used to serve the customer, are
4 recovered in rates. Otherwise, other customers would bear these avoidable costs.

5

6 **Q. What is an escalation clause?**

7 A. The escalation clause is a mechanism set forth in the service agreement, in which the rate(s)
8 during the original and any renewal terms of the Service Agreement will increase annually,
9 which may be a fixed annual percentage or may be based upon changes in published price
10 indices and/or changes in the Company’s cost of service, as the Company and the
11 qualifying customer shall agree. The purpose of this provision is to capture incremental
12 increases that would be expected to the variable O&M costs.

13

14 **Q. Why is the Company proposing the rider?**

15 A. Currently, large industrial customers receiving wastewater utility service from the
16 Company can opt to not receive service from the Company should a competitive alternative
17 exist. Thus, as a means to incentivize those customers to continue receiving wastewater
18 service from Aqua, the Company believes a rider is appropriate and necessary. That said,
19 under the proposed rider, potentially eligible customers must provide documentation to
20 establish, to the Company’s satisfaction, the existence of a competitive alternative, among
21 other things.

22

AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY

1 **Q. If a large industrial wastewater customer were to stop receiving wastewater service**
2 **from Aqua, what would be the effect(s)?**

3 A. If a large wastewater customer were to opt-out of receiving service from Aqua, the
4 Company would lose out on revenue from that customer. As a result, that loss of revenue
5 would be spread around the Company's service territory to other wastewater customers to
6 recoup the loss. In sum, should a large industrial wastewater customer leave Aqua's
7 service territory or find alternative wastewater service, other customers' bills would be
8 adversely affected.

9
10 **Q. If large industrial customers opt-in to the rider, would other wastewater customers**
11 **on the Company's system be affected?**

12 A. This would be determined in future base rate proceedings. The Company would reflect
13 negotiated rate revenue in future base rate proceedings. To the extent that negotiated rate
14 revenue is less than revenue at full tariffed rates, other customers may be marginally
15 affected. However, the rate effects would be less than if a large industrial customer were
16 to stop receiving service from the Company entirely. Thus, Aqua believes it is reasonable
17 to incent large industrial customers to continue to receive service from the Company at a
18 slightly discounted rate rather than having those customers stop receiving service
19 altogether. However, I emphasize that there would be no immediate revenue or rate
20 impacts if the proposed rider is approved as no contract would take effect upon the approval
21 of this proposed rider, and a determination of cost allocation would not be made until a
22 base rate case proceeding was decided that included negotiated contract rates under this
23 rider.

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Q. How many large industrial customers would be eligible for the proposed rider?

A. Currently, only one customer on Aqua’s existing wastewater system would be eligible for the rider.

Q. Is that customer aware of the proposed rider?

A. Yes. Aqua has advised that customer of the potential for a contracted rate should the proposed rider be approved by the Commission. That said, the customer has stated that it does not plan to participate in the rider should it be approved.

Q. Are there other potential customers that may be eligible for a contracted rate under the rider in the future?

A. Potentially, yes. Currently, at Docket No. A-2019-3015173 before the Commission, the Company is pursuing Certificates of Public Convenience to acquire the wastewater system assets of the Delaware County Regional Water Quality Control Authority (“DELCORA”), situated within all of part of 49 municipalities within portions of Chester and Delaware Counties, Pennsylvania. Should that transaction be approved, Aqua would begin to offer, render, furnish, and supply wastewater service to the public in portions of Chester and Delaware Counties currently served by DELCORA. There are two customers that could be eligible for the proposed rider that are currently served on DELCORA’s system at contract rates.

The Company also is expanding its footprint through other acquisitions, some of which come with large industrial customers. Aqua filed an application with the

AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY

1 Commission to acquire the wastewater system assets of the City of Beaver Falls at Docket
2 No. A-2022-3033138. In that transaction there are at least two potential customers that
3 could qualify under this rider based on usage; however, a viable competitive alternative
4 would still be required as set forth in Aqua's proposed tariff. The proposed tariff will allow
5 the Company the flexibility to retain customers in new service areas, should those
6 customers have alternatives to service, thereby retaining industry in those newly serviced
7 areas.

8
9 **Q. Will there be any impact to the Company's revenues if the proposed rider is**
10 **approved?**

11 A. Not presently. Because there is only one customer eligible for the rider right now, and that
12 customer has indicated that they do not plan to participate or enter into a contracted rate
13 with the Company, there will be no immediate impact to revenues. Moreover, the rates of
14 any customers would not be affected until any contract that is entered into is included in a
15 base rate proceeding in the future. Simply said, the approval of this rider does not change
16 any revenue collected or rate currently being charged by the Company.

17
18
19 **Q. Are you aware whether other wastewater utilities in the Commonwealth of**
20 **Pennsylvania offer contracted rates to large industrial customers?**

21 A. I am not aware of other wastewater utilities in Pennsylvania that offer contracted rates like
22 the proposed rider. That said, riders and contracted rates are common practice in other
23 utility sectors, including water utilities.

**AQUA PENNSYLVANIA WASTEWATER, INC.
DIRECT TESTIMONY OF ERIN M. FEENEY**

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Q. Can you provide an example?

A. Yes. Aqua modelled its proposed rider off of Aqua PA’s Rider DIS – Demand Based Industrial Service. Aqua PA’s rider DIS is available to a customer or future customer that:

- 1. purchases or intends to purchase water from the Company for industrial purposes;
- 2. enters into a Service Agreement for a term of not less than 2 years;
- 3. during the original and any renewal terms of the Service Agreement, agrees to purchase a minimum of 10 million gallons of water per month at a daily load factor of not less than 0.60; and
- 4. has a viable competitive alternative to service from the Company and intends to select that alternative to the detriment of the Company and its other customers.

See Aqua Pennsylvania, Inc. Tariff Water-PA P.U.C. No. 3, Original Page 19.

Q. Why was Aqua PA’s Rider DIS implemented?

A. For the same reason Aqua is proposing a similar rider for its wastewater tariff: to incent large industrial customers to continue to receive service from Aqua PA, rather than seek out an alternative to service from Aqua PA or to relocate out of Aqua PA’s service territory, thereby requiring Aqua PA to recoup lost revenues from other customers.

Q. Do other utilities in other sectors employ similar riders?

A. Yes. I understand that several natural gas distribution companies and, to a lesser extent, electric distribution companies in Pennsylvania have instituted similar riders as a means to

AQUA WASTEWATER
EXHIBIT NO. EF-1

AQUA PENNSYLVANIA WASTEWATER, INC.
(hereinafter referred to as the "Company")

RATES, RULES, AND REGULATIONS

GOVERNING THE COLLECTIONS OF

WASTEWATER

IN PORTIONS OF

ADAMS, BERKS, BUCKS, CARBON, CHESTER, CLARION, CLEARFIELD, DELAWARE,
LACKAWANNA, LUZERNE, MONROE, MONTGOMERY, PIKE, SCHUYLKILL, VENANGO,
AND WYOMING COUNTIES

IN THE COMMONWEALTH OF PENNSYLVANIA

ISSUED: December 7, 2022

EFFECTIVE: February 5, 2023

By:

Marc Lucca, President
Aqua Pennsylvania, Inc.
762 Lancaster Avenue
Bryn Mawr, Pennsylvania 19010

NOTICE

THIS TARIFF ESTABLISHES A RIDER FOR LARGE WASTEWATER
CUSTOMERS WHO DISCHARGE WASTEWATER INTO AQUA'S COLLECTION
SYSTEM RESULTING FROM INDUSTRIAL PROCESSES

LIST OF CHANGES MADE BY THIS TARIFF

Changes: This tariff makes changes to establish a rider for large wastewater customers that discharge wastewater into Aqua Wastewater's collection system resulting from industrial processes. Customers who wish to enter into a Service Agreement under this rider must enter the Service Agreement for a term of not less than 3 years and provide a viable competitive alternative to service from the Company. See pages 16 and 17 of the Tariff.

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SCHEDULE OF RATES**RIDER LWCUR – LARGE WASTEWATER CUSTOMER USER****I. Applicability**

The rate applies throughout the territory served under this tariff.

II. Availability

The rider is available to a current or prospective Large Wastewater customer that:

1. Discharges wastewater into Aqua Wastewater's collection system resulting from industrial processes;
2. Enters into a Service Agreement for a term of not less than 3 years; and,
3. Has a viable competitive alternative to service from the Company and, unless a new rate is established, the customer intends to select that alternative to the detriment of the Company and its customers.
4. In addition to 1-3, the Company may consider whether the current or prospective Large Wastewater Customer has made or agrees to make a substantial contribution of capital for facilities or facilities themselves to the Company in order to become or remain a customer and whether a customer plans to locate or retain a substantial facility in the Company's existing or applied-for franchise territory that provides substantial economic development and employment in the immediate local or Commonwealth.

The Company shall require documentation to establish, to the Company's satisfaction, the existence of a competitive alternative along with any other applicable qualifying condition stated above. Such documentation may include, but is not limited to an affidavit of the customer or if, the customer is a corporation, an affidavit of one of more of its senior managers or its officers.

II. Rate

The rate(s) to be charged qualifying customers under this rider shall be negotiated and set forth in the Service Agreement, provided, however, that such rate(s): (1) shall not be less than the Minimum Rate; and (2) shall be subject to an Escalation Clause, as hereafter defined.

Minimum Rate: The Minimum Rate shall be sufficient to recover (1) variable Wastewater Treatment Cost (e.g., electric power and fuel costs for power production, sludge removal and disposal costs, wastewater conveyance costs, any chemical costs not otherwise covered by any applicable surcharges for BOD, TSS, etc.); plus (2) the fixed costs (depreciation and pre-tax return) on the facilities necessary to serve the customer; and (3) some portion of the fixed costs of the Company's wastewater treatment and collection facilities.

SCHEDULE OF RATES

RIDER LWCUR – LARGE WASTEWATER CUSTOMER USER (cont'd)

Escalation Clause: The rate set forth in the Service Agreement shall be subject to an Escalation Clause, during the original and any renewal terms of the Service Agreement, which may be a fixed annual percentage or may be based upon changes in published price indices and/or changes in the Company's cost of service, as the Company and the qualifying customer shall agree.

Filing with the Pennsylvania Public Utility Commission/Confidentiality: Service Agreements entered into between the Company and qualifying customers under this rider shall be filed with the Commission on a confidential basis within thirty (30) days of their execution and shall not be subject to disclosure except by Petition made to and granted by the Commission pursuant to 52 Pa Code §1.74.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Equivalent Dwelling Unit or "EDU": The EDU is a measure based upon the estimated average daily wastewater flow for the type of business, as calculated by the Pennsylvania Department of Environmental Protection regulation at 25 Pa. Code § 73.17 divided by the typical estimated average daily wastewater flow from a current single-family unit. In the Company's sole discretion, the Company may assign more than one (1) EDU for a residential Property.

Grinder Pump: Any mechanical or powered device used to grind, macerate or fluidize waste so that it can be discharged into the Company's facilities. This device is a component of the Customer Service Line and the sole responsibility of the Customer to own, maintain and operate along with the balance of their Customer Service Line. The Customer shall be responsible for all power to operate the device in accordance with the manufacturer's specifications and guidelines.

Industrial Waste Permit or Contract: A wastewater permit or contract issued as required by the Company to an industrial user.

Industrial Waste Pretreatment Program: A program established by the Company that requires discharges to monitor, test, treat and control as necessary, pollutants in their wastewater prior to discharge into the sanitary and/or combined sewer.

Large Wastewater Customer: An industrial class customer that takes or receives wastewater collection, treatment and/or disposal services that exceed 85,000 gallons of wastewater per month.

Line Extension: An addition to the Company's System Mains which is necessary to serve the Premises of a Customer.

Main: The Company's pipe, excluding Service Connections, located in a public highway, street, alley, or private right-of-way which pipe is used in transporting Wastewater.

Maximum Allowable Industrial Loading: The maximum mass of pollutants that is allowed to be discharged to the treatment works from all contributory industrial users.

Nondomestic Waste or Industrial Waste: Any wastewater resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resource, or any mixture of such waste with water or domestic wastewater, as distinct from domestic wastewater.


Person: Any individual, firm, company, association, society, corporation, institution, group, or any other legal entity.

Premise: A single lot or piece of ground consisting of a single residential unit, together with all buildings and structures erected thereon.

Pretreatment: The reduction or elimination of pollutants, or the alteration of the nature of pollutant properties prior to discharging into the wastewater system. This reduction or alteration can be obtained by physical, chemical, or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

VERIFICATION

I, Erin M. Feeney, Manager of Rates of Aqua Pennsylvania, Inc., hereby state that the facts set forth in my Direct Testimony, Aqua Statement No. 1, at PaPUC Docket No. R-2022-3037141 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 herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


Erin M. Feeney
Manager of Rates
Aqua Pennsylvania, Inc.

Dated: March 1, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DOCKET NO. R-2022-3037141

AQUA PENNSYLVANIA WASTEWATER, INC.

**PREPARED REBUTTAL TESTIMONY OF
WILLIAM C. PACKER**

Topics Addressed:

**Response to OCA and OSBA's Recommendations Regarding the
Large Wastewater Customer User Rider**

DATE SERVED: March 30, 2023
DATE ADMITTED: _____

Aqua Wastewater Statement No. 1R

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**AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER**

I. INTRODUCTION AND PURPOSE OF TESTIMONY

Q. Please state your name and business address.

A. William C. Packer. My business address is 762 W. Lancaster Avenue, Bryn Mawr, Pennsylvania 19010.

Q. By whom are you employed and in what capacity?

A. I am employed by Essential Utilities, Inc. (“Essential”) as Vice President Regulatory Accounting and Regional Controller. Essential is the Parent Company of Aqua Pennsylvania, Inc. (“Aqua PA”) and Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”).

Q. Please describe your education and business experience.

A. I graduated from the Richard Stockton College of New Jersey in 1998 with a Bachelor of Science degree in Business Studies with a concentration in Accounting.

In September 1999, I joined New Jersey American Water Company (“American”) as a General Staff Accountant responsible for financial statement preparation, account reconciliation, financial support for rate cases, and account analysis. In September 2001, I was transferred to American’s Service Company. I was employed there for four years in several roles, including Senior Fixed Assets/Job Cost Accountant, Financial Support Analyst, and Accounting Supervisor Fixed Assets. At American, I had the opportunity to support the rate-making process by working closely with operating subsidiaries in 23 states, preparing schedules and answering interrogatories.

**AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER**

1 In March 2005, I joined Aqua New Jersey, Inc., where I served as Assistant
2 Controller until December 2006, when I transferred to Aqua America, Inc. In July 2008, I
3 was promoted to the position of Mid-Atlantic Manager of Rates and since then have
4 assumed increasing levels of responsibility and promotions. In April 2017, I was promoted
5 to Vice President – Controller of Aqua. In 2020, I was promoted to my current position of
6 Vice President, Regulatory Accounting and Regional Controller where I have additional
7 responsibilities to oversee rates and regulatory accounting matters of Essential.

8 In addition to my corporate experience, I served three terms as a Councilman in the
9 Borough of Woodbury Heights, New Jersey. In that role, I served as the Chairman of the
10 Finance, Administration, and Personnel committee; in addition, I served as a member of
11 the Public Safety and Streets/Roads committees. I was elected as Mayor of the Borough
12 of Woodbury Heights in November of 2018 and was sworn in on January 5, 2019. The
13 Borough of Woodbury Heights is one of 565 municipalities in New Jersey and has a
14 population of approximately 3,000 residents.

15
16 **Q. On whose behalf are you providing this rebuttal testimony?**

17 A. I am providing this rebuttal testimony on behalf of Aqua.
18

19 **Q. Did you previously submit testimony in this proceeding on behalf of Aqua?**

20 A. No. Aqua witness Ms. Erin Feeney submitted direct testimony and an exhibit on behalf of
21 Aqua in this proceeding on March 1, 2023, as Aqua Statement No. 1 and Exhibit No. EF-
22 1.
23

**AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER**

1 **Q. Why are you providing Aqua’s rebuttal testimony in this proceeding?**

2 A. Aqua witness Feeney is currently on leave and is unable to provide rebuttal testimony at
3 this time. As such, I am adopting Ms. Feeney’s direct testimony in its entirety, as well as
4 Aqua Exhibit No. EF-1.

5
6 **Q. What is the purpose of your rebuttal testimony?**

7 A. My rebuttal testimony responds to the direct testimony submitted by the Pennsylvania
8 Office of Consumer Advocate’s (“OCA”) witness, Mr. Jerome Mierzwa (OCA St. No. 1),
9 and to the direct testimony submitted by the Office of Small Business Advocate’s
10 (“OSBA”) witness, Mr. Brian Kalcic (OSBA St. No. 1).

11 Specifically, I will be addressing: (1) the OCA’s and OSBA’s recommendations
12 that the Commission deny Aqua’s proposal to establish a contract rate for large industrial
13 wastewater customers via a rider (“Proposed Rider”); and (2) the OCA’s recommendation
14 that, if the Commission were to approve the Proposed Rider, the tariff should be revised to
15 affirmatively require certain information to demonstrate that a competitive alternative is
16 probable in the absence of a negotiated rate.

17
18 **Q. Are you sponsoring any exhibits associated with your rebuttal testimony?**

19 A. Yes. Attached to my testimony as WCP-IR Exhibit A is Aqua PA’s Rider DIS.
20

II. PROPOSED RIDER

21
22 **Q. OCA witness Mierzwa and OSBA witness Kalcic both recommend that the**
23 **Commission deny the Proposed Rider. Would you like to generally respond?**

**AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER**

1 A. Yes. OCA witness Mierzwa recommends that the Commission reject Aqua’s Proposed
2 Rider as, according to Mr. Mierzwa, Aqua has “not shown that the [Proposed] Rider is
3 necessary.” (OCA St. No. 1, p. 7.) This, according to Mr. Mierzwa, is because there are
4 no current Aqua customers that have expressed interest receiving service under the
5 Proposed Rider and it is not certain that other customers will be eligible in the future after
6 certain acquisitions occur that have not yet been approved by the Commission. Similarly,
7 OSBA witness Kalcic recommends that the Commission reject the Proposed Rider because
8 Aqua does not have any current customers that would be eligible or interested in receiving
9 service under the Proposed Rider and, according to Mr. Kalcic, Aqua has not presented any
10 evidence that any “prospective” industrial customer would opt to receive alternative service
11 absent the Proposed Rider.

12 Both Mr. Mierzwa and Mr. Kalcic misunderstand the rationale behind the Proposed
13 Rider. The Proposed Rider is designed to incent existing or future eligible customers to
14 continue or begin receiving wastewater service from Aqua. It is not limited to a specific
15 and immediate customer’s needs. Rather, the Proposed Rider will be a mechanism that
16 remediates future impacts of a large industrial customer opting out of receiving wastewater
17 service from Aqua should a viable wastewater service alternative exist. Indeed, as
18 explained in Aqua’s direct testimony, if a large wastewater customer were to opt-out of
19 receiving service from Aqua, the Company would lose out on revenue from that customer.
20 As a result, that loss of revenue would be spread to other wastewater customers to recoup
21 the loss, thereby negatively impacting other customers’ bills.

22

**AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER**

1 **Q. OCA witness Mierzwa argues that Aqua has not shown that alternative wastewater**
2 **service for current or future customers is feasible or probable. Please respond.**

3 A. Mr. Mierzwa is correct that, presently, Aqua is not aware of any customers that would take
4 contracted service under the Proposed Rider if approved. However, Mr. Mierzwa provides
5 no basis for his assertion that the Proposed Rider would not be necessary for customers
6 that Aqua may serve in the future. The wastewater service landscape is not static, and it is
7 unreasonable to require Aqua to specifically identify alternative wastewater service when:
8 (1) alternative wastewater service may become an option in the future for customers in
9 Aqua's current service territory; and (2) alternative wastewater service may exist – or come
10 to exist in the future – for certain customers not yet in Aqua's service territory but that
11 Aqua may acquire. Additionally, customers receiving wastewater service from Aqua could
12 opt to leave Aqua's service territory altogether absent a negotiated rate.

13
14 **Q. Mr. Mierzwa argues that the Commission has not previously approved a wastewater**
15 **utility's tariff that provides for discounted rates for customers with competitive**
16 **alternatives. Please respond.**

17 A. Mr. Mierzwa's contention on this point may be true, however, it does not provide a full
18 view. While Aqua is unaware of any other wastewater utility that has proposed a similar
19 tariff provision, Mr. Mierzwa does not cite any proceeding in which a similar proposal has
20 been rejected by the Commission or other state regulatory agency. Relative novelty is not
21 a legitimate ground to oppose the Proposed Rider. Indeed, and as more fully explained in
22 direct testimony, natural gas distribution companies and, to a lesser extent, electric
23 distribution companies in Pennsylvania have instituted similar riders as a means to

**AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER**

1 incentivize high consumption customers from seeking alternative supply or leaving the
2 utility’s service territory altogether. Further, Aqua has explicitly modelled the Proposed
3 Rider off of a similar tariff provision employed by Aqua PA for water service that was
4 approved by the Commission. *See* Aqua Pennsylvania, Inc. Tariff Water-PA P.U.C. No. 3,
5 Original Page 19 (“Water Rider”), attached here as WCP-IR Exhibit A. Mr. Mierzwa’s
6 arbitrary assessment of the Proposed Rider, when similar tariff provisions exist across other
7 utility sectors, is perplexing.

8
9 **Q. Are there customers who receive service under the Water Rider for negotiated rates?**

10 A. Yes.

11
12 **Q. On pages 8 and 9 of his direct testimony, OCA witness Mierzwa argues that potential**
13 **future customers of Aqua can advocate for lower tariffed rates and favorable rate**
14 **design in base rate proceedings, rendering the Proposed Rider unnecessary. Please**
15 **respond.**

16 A. Once again, Mr. Mierzwa mistakes the trees for the forest. While it is true that large
17 industrial customers – whether existing or future – can participate in base rate proceedings
18 before the Commission and advocate for favorable rates, this process is dependent on a
19 variety of factors. First, under the Company’s current tariff, large industrial customers do
20 not have a mechanism to receive favorable rates. Thus, those customers are relegated to
21 advocating for lower tariffed rates and favorable rate design during intermittent base rate
22 proceedings. If an alternative to Aqua’s wastewater service were to arise between Aqua’s
23 base rate cases, the customer could opt to receive that alternative service, causing Aqua to

AQUA PENNSYLVANIA WASTEWATER, INC.
REBUTTAL TESTIMONY OF WILLIAM C. PACKER

1 lose that customer’s rate revenue altogether. Second, relying only on base rate proceedings
2 to provide rate flexibility is misguided and inconsistent with other utility sectors’ practice.
3 As I noted, base rate proceedings are intermittent, often occurring only once every several
4 years. The Proposed Rider circumvents the rigidity of occasional base rate proceedings,
5 thus providing Aqua increased flexibility to attempt to meet the needs of potentially eligible
6 large industrial customers, now or in the future, without those customers opting out of
7 receiving Aqua’s wastewater service altogether. Finally, a base rate process normally
8 develops rates for groups of customers with similar characteristics. It also strongly relies
9 on cost of service to develop rates for each class. This is not well suited to a customer who
10 threatens to leave the utility entirely due to other alternatives not available to every member
11 of the class that are lower than the average cost to serve the entire class. Furthermore, the
12 Rider provides the framework and venue for expediency of executing agreements of this
13 nature that is simply not afforded in a full base rate proceeding. Economic circumstances
14 of industrial users and other customers can change quickly that necessitate a process to
15 allow the Company to actively negotiate in an efficient manner to preserve said customer,
16 ultimately to the benefit of Aqua’s entire customer base. The reality is the fixed costs of
17 the utility are a relative constant, in that the loss of a customer of this nature will not result
18 in operating or capital cost reductions that accompany the loss of revenue. In short, the
19 remaining customers will ultimately pay higher costs.

20
21 **Q. What is Aqua’s position on Mr. Mierzwa’s recommended modifications to the**
22 **Proposed Rider should it be approved by the Commission?**

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1 A. The Company does not agree with Mr. Mierzwa’s recommended modifications to the
2 Proposed Rider. Riders are not new to Pennsylvania, and they are well established in
3 practice. These riders have operated effectively for 30 years, and in this instance, there is
4 no need to reinvent the wheel. The facts are that, to the extent a lower rate is negotiated
5 via this Proposed Rider, and the rate established for a qualifying customer is lowered
6 between a base rate case, that reduction in revenue falls entirely on the Company and not
7 existing customers. Contracts entered into under rate Riders are subject to extensive review
8 in a base rate case.

9

10 **Q. Please address OSBA witness Kalcic’s contention that Aqua only filed the Proposed**
11 **Rider pursuant to a Joint Stipulation with Kimberly-Clark Corporation and**
12 **Kimberly-Clark Pennsylvania, LLC.**

13 A. The Company did file the Proposed Rider in part due to the Joint Stipulation, but, as noted
14 by the Company in the direct testimony of Ms. Feeney (Aqua Statement No. 1) at pages 7-
15 8, the Company is expanding its existing footprint in new service areas which have
16 different system characteristics than the mostly residential and commercial customers that
17 make up Aqua’s current customer base. These new service areas include larger industrial
18 customers that may have the financial wherewithal to obtain service through other means
19 or leave the service territory entirely.

20

21 **Q. What would be the rate effect(s) if Aqua’s acquisition of Delaware County Regional**
22 **Water Quality Control Authority (“DELCORA”) is approved?**

AQUA PENNSYLVANIA WASTEWATER, INC.
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1 A. As Mr. Kalcic correctly notes, if Aqua’s acquisition of DELCORA is approved, the
2 Company would assume a previously negotiated service agreement between DELCORA
3 and Kimberly-Clark upon closing of the transaction. However, absent authority to continue
4 that service agreement in the future, Kimberly Clark has no assurance that the contract rate
5 will continue past the first Aqua rate case following the acquisition of DELCORA.

6
7 **Q. Are there other customers that might be eligible for a negotiated rate under the**
8 **Proposed Rider in the future?**

9 A. In theory, yes. The Company is continually expanding its footprint through acquisitions
10 of additional wastewater systems, some of which come with large industrial customers. As
11 noted in Aqua’s direct testimony, Aqua filed an application with the Commission to acquire
12 the wastewater system assets of the City of Beaver Falls at Docket No. A-2022-3033138.
13 In that transaction there are at least two potential customers that could qualify for the
14 Proposed Rider based on usage; at this time Aqua does not know if these two potential
15 customers have a viable competitive alternative, and a viable competitive alternative would
16 still be required as set forth in Aqua’s Proposed Rider. It is possible, if not likely, that
17 Aqua will continue acquiring certain systems that serve large industrial customers. The
18 Proposed Rider, beyond providing immediate flexibility to certain qualifying large
19 industrial customers should pending acquisitions be approved, will provide the same
20 flexibility for large industrial customers subject to Aqua’s expanding service territory in
21 the future. As Aqua continues to acquire other systems, it will continually evaluate whether
22 there are potentially eligible customers for the Proposed Rider being served by the acquired
23 systems. To deny the Proposed Rider would functionally “kick-the-can” and potentially

**AQUA PENNSYLVANIA WASTEWATER, INC.
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1 create negative rate effects for customers across Aqua's system in the future should a
2 system with an otherwise eligible customer or customers be acquired without the Proposed
3 Rider in place at the time of acquisition. Through the Proposed Rider, Aqua is attempting
4 to be proactive rather than reactive. Both Mr. Mierzwa and Mr. Kalcic recommend the
5 opposite approach, which could lead to higher bills for Aqua's customers in the future.

6
7 **Q. Will there be any immediate impact to the Company's revenues if the Proposed Rider**
8 **is approved?**

9 A. No. The approval of the Proposed Rider does not change any rate currently being charged
10 by the Company.

11
12 **Q. Will the OCA and OSBA be able to review the reasonableness of any future contract**
13 **entered into with a customer under the Proposed Rider should it be approved?**

14 A. Yes. The contracts would be subject to review in subsequent base rate cases that include a
15 contract rate.

16
17 **III. CONCLUSION**

18 **Q. Does that conclude your rebuttal testimony at this time?**

19 A. Yes, it does, but I reserve the right to supplement my rebuttal testimony as needed during
20 this proceeding.

WCP-IR Exhibit A

SCHEDULE OF RATES

RIDER DIS – DEMAND BASED INDUSTRIAL SERVICE

I. Applicability

This rate applies throughout the territory served under this tariff.

II. Availability

This rider is available to a customer or prospective customer that:

1. purchases or intends to purchase water from the Company for industrial purposes;
2. enters into a Service Agreement for a term of not less than 2 years;
3. during the original and any renewal terms of the Service Agreement, agrees to purchase a minimum of 10 million gallons of water per month at a daily load factor of not less than 0.60; and
4. has a viable competitive alternative to service from the Company and intends to select that alternative to the detriment of the Company and its other customers.

The Company shall require documentation to establish, to the Company's satisfaction, the existence of a competitive alternative. Such documentation may include, but is not limited to, an affidavit of the customer or, if the customer is a corporation, an affidavit of one or more of its officers.

III. Rate

The rate(s) to be charged qualifying customers under this rider will be as set forth in the Service Agreement, provided, however, that such rate(s): (1) shall not exceed the Maximum Rate; (2) shall not be less than the Minimum Rate; and (3) shall be subject to an Escalation Clause, as hereafter defined.

Maximum Rate: The Maximum Rate shall be the charges specified in the Company's Rate Schedule that would otherwise apply to the qualifying customer absent this rider.

Minimum Rate: The Minimum Rate shall be sufficient to recover: (1) the Production Cost of Water; (2) the fixed costs (depreciation and pre-tax return) associated with the facilities necessary to serve the customer; and (3) some portion of the fixed costs of the Company's other facilities. For purposes of this rider, the Production Cost of Water shall be the variable cost the Company incurs to produce additional treated water, which consists of expenses for electric power, chemicals and purchased water (where applicable).

Escalation Clause: The rate set forth in the Service Agreement shall be subject to an Escalation Clause, during the original and any renewal terms of the Service Agreement, based upon changes in published price indices and/or changes in the Company's cost of service, as the Company and the qualifying customer shall agree.

Filing With The Pennsylvania Public Utility Commission/Confidentiality: Service Agreements entered into between the Company and qualifying customers under this rider shall be filed with the Commission on a confidential basis within thirty (30) days of their execution and shall not be subject to disclosure except by Petition made to and granted by the Commission pursuant to 52 PA Code §1.74.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2022-3037141
	:	C-2023-3037579
Aqua Pennsylvania Wastewater, Inc.	:	

VERIFICATION

I, William C. Packer, being Vice President Regulatory Accounting and Regional Controller for Essential Utilities, Inc., hereby state that the testimony set forth in Aqua Statement Nos. 1 and 1R is true and correct to the best of my knowledge, information, and belief, and that if asked orally at a hearing in this matter, my answers would be as set forth therein. I further state that I am sponsoring Aqua Exhibit EF-1 and WCP-IR Exhibit A, and that they are true and correct to the best of my knowledge, information, and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 30, 2023

William C. Packer

William C. Packer

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC	:	
UTILITY COMMISSION	:	
	:	
v.	:	DOCKET NO. R-2022-3037141
	:	
AQUA PENNSYLVANIA	:	
WASTEWATER, INC.	:	

DIRECT TESTIMONY

OF

JEROME D. MIERZWA

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

MARCH 20, 2023

DIRECT TESTIMONY OF JEROME D. MIERZWA

I. INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Jerome D. Mierzwa. I am a Principal with and Vice President of Exeter Associates, Inc. (“Exeter”). My business address is 10480 Little Patuxent Parkway, Suite 300, Columbia, Maryland 21044. Exeter specializes in providing public utility-related consulting services.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I graduated from Canisius College in Buffalo, New York, in 1981 with a Bachelor of Science Degree in Marketing. In 1985, I received a Master’s Degree in Business Administration with a concentration in finance, also from Canisius College. In July 1986, I joined National Fuel Gas Distribution Corporation (“NFGD”) as a Management Trainee in the Research and Statistical Services Department (“RSS”). I was promoted to Supervisor RSS in January 1987. While employed with NFGD, I conducted various financial and statistical analysis related to the Company’s market research activity and state regulatory affairs. In April 1987, as part of a corporate reorganization, I was transferred to National Fuel Gas Supply Corporation’s (“NFG Supply”) rate department where my responsibilities included utility cost of service and rate design analysis, expense and revenue requirement forecasting, and activities related to federal regulation. I was also responsible for preparing NFG Supply’s Federal Energy Regulatory Commission (“FERC”) Purchased Gas Adjustment (“PGA”) filings and developing interstate pipeline and spot market supply gas price projections. These forecasts were utilized for internal planning purposes as well as in NFGD’s Pennsylvania 1307(f) gas cost review proceedings.

1 In April 1990, I accepted a position as a Utility Analyst with Exeter. In December
2 1992, I was promoted to Senior Regulatory Analyst. Effective April 1, 1996, I became a
3 Principal of Exeter. Since joining Exeter, I have specialized in evaluating the gas
4 purchasing practices and policies of natural gas distribution companies (“NGDCs”), utility
5 class cost of service and rate design analysis, sales and rate forecasting, performance-based
6 incentive regulation, revenue requirement analysis, the unbundling of utility services and
7 the evaluation of customer choice natural gas transportation programs.

8 Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS
9 ON UTILITY RATES?

10 A. Yes. I have provided testimony on over 400 occasions in proceedings before FERC, and
11 state utility regulatory commissions in Arkansas, Connecticut, Delaware, Georgia, Illinois,
12 Indiana, Louisiana, Maine, Massachusetts, Montana, Nevada, New Hampshire, New
13 Jersey, Ohio, Rhode Island, South Carolina, Texas, Utah, and Virginia, as well as before
14 the Pennsylvania Public Utility Commission (“PaPUC” or “Commission”).

15 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

16 A. On December 7, 2022, Aqua Pennsylvania Wastewater, Inc. (“Aqua”) filed a tariff
17 supplement (Supplement No. 3 to Tariff Sewer-PA P.U.C. No. 3) to provide for negotiated
18 contract rates for certain large industrial wastewater customers with competitive
19 alternatives via a rider, titled Rider LWCUR – Large Wastewater Customer User. Exeter
20 was retained by the Pennsylvania Office of Consumer Advocate (“OCA”) to review Rider
21 LWCUR. The purpose of my testimony is to address whether Rider LWCUR should be
22 approved by the Commission.

1 Q. DO YOU HAVE ANY EXHIBITS?

2 A. Yes, Exhibit JDM-1 contains the Aqua discovery responses that I reference in my
3 testimony. One response was provided with an attachment that Aqua marked confidential.
4 That attachment is not included in Exhibit JDM-1.

5 Q. PLEASE SUMMARIZE YOUR FINDINGS AND RECOMMENDATIONS.

6 A. My finding and recommendations are as follows:

- 7 • Rider LWCUR should not be approved by the Commission.
- 8 • If the Commission approves the Rider, the tariff should be revised to
9 affirmatively require information adequate to demonstrate that a
10 competitive alternative is not only viable but probable in the absence of a
11 negotiated rate.

12 **II. RIDER LWCUR**

13 Q. WHY IS THE COMPANY PROPOSING RIDER LWCUR?

14 A. As discussed on pages 5 and 6 of Aqua witness Erin Feeney's testimony, Aqua Statement
15 1, the Company contends that certain large industrial customers that currently receive
16 wastewater utility service from Aqua can opt to discontinue receiving service from the
17 Company and leave Aqua's service territory or find a competitive alternative for
18 wastewater service. To provide customers with competitive alternatives an incentive to
19 continue receiving wastewater service from Aqua, the Company is proposing Rider
20 LWCUR which would provide customers with an alternative competitive service at
21 discounted rates which are lower than the Company's current Commission-approved rates.
22 Aqua amended its proposed LWCUR Rider in response to discovery from the
23 Commission's Bureau of Technical Utility Services (TUS). A copy of the proposed tariff
24 (as amended) is provided in Aqua Exhibit EF-1.

1 Q. PLEASE DESCRIBE RIDER LWCUR.

2 A. Rider LWCUR would be available to large industrial wastewater customers that receive
3 wastewater collection, treatment and/or disposal services in excess of 85,000 gallons of
4 wastewater per month. To be eligible for service under Rider LWCUR, the customer must:

- 5 1. Discharge wastewater into Aqua's collection system resulting from industrial
6 processes;
- 7 2. Enter into a service agreement for a term of not less than 3 years; and,
- 8 3. Have a viable competitive alternative to service from the Company and, unless a new
9 rate is established, the customer intends to select that alternative to the detriment of the
10 Company and its customers.

11 In addition to above, the Company states that it may consider whether the existing
12 or prospective Rider LWCUR customer has made or agrees to make a substantial
13 contribution of capital for facilities or facilities themselves to the Company in order to
14 become or remain a customer, and whether a customer plans to locate or retain a substantial
15 facility in the Company's existing or applied-for franchise territory that provides economic
16 development and employment in the immediate local area or Commonwealth of
17 Pennsylvania. The rate to be charged for service under Rate LWCUR would be negotiated
18 and set forth in a service agreement, will not be less than a minimum rate, and be subject
19 to an escalation clause.

20 Q. HOW WOULD THE MINIMUM RATE BE DETERMINED UNDER RIDER
21 LWCUR?

22 A. As proposed, the minimum rate would be sufficient to recover: (1) variable wastewater
23 treatment costs (e.g., electric power and fuel costs for power production, sludge removal
24 and disposal costs, wastewater conveyance costs, any chemical costs not otherwise covered
25 by any applicable surcharges for Biochemical Oxygen Demand ("BOD"), Total Suspended
26 Solids ("TTS"), etc.); plus (2) the fixed costs (depreciation and pre-tax return) on the

1 facilities necessary to serve the customer; and (3) some portion of the fixed costs of the
2 Company's wastewater treatment and collection facilities.

3 Q. WHAT IS THE PURPOSE OF THE MINIMUM RATE?

4 A. According to Aqua witness Feeney, on page 5 of her testimony, the purpose of minimum
5 rate is to ensure that variable operating and maintenance ("O&M") costs, and depreciation
6 and return on the facilities utilized to serve the customer, are recovered through the rates
7 assessed to the customer. Otherwise, other customers could be responsible for these
8 avoidable costs.

9 Q. WHAT IS THE ESCALATION CLAUSE?

10 A. Ms. Feeney states that the escalation clause is a mechanism set forth in the service
11 agreement under which the rate(s) during the original and any renewal terms of the service
12 agreement will increase annually, which may be a fixed annual percentage or may be based
13 upon changes in published price indices and/or changes in the Company's cost of service,
14 as the Company and the qualifying customer shall agree. The purpose of this provision is
15 to capture incremental increases that would be expected to the variable O&M costs.

16 Q. WOULD THE SERVICE AGREEMENTS ENTERED INTO BY AQUA
17 UNDER RIDER LWCUR BE SUBJECT TO COMMISSION REVIEW?

18 A. Yes. Aqua proposes that any service agreement entered into under Rider LWCUR would
19 be reviewable in a base rate case, or when the contract is filed if the Commission initiates
20 a review of the service agreement (Aqua response to OSBA-I-3).

21 Q. COULD ANY OF THE REVENUE DEFICIENCY RESULTING FROM THE
22 DISCOUNTED RATES PROVIDED FOR UNDER RIDER LWCUR BE
23 RECOVERED FROM AQUA'S OTHER CUSTOMERS?

24 A. Yes. Aqua states that it "intends to recover the revenue deficiency resulting from its
25 proposed Rider LWCUR from its larger customer base." (Aqua response to OCA-1-4).

1 According to Aqua, it “does not intend” to shift any of the revenue deficiency resulting
2 from its proposed Rider to water customers. (Aqua response to OCA-1-6). Notwithstanding
3 Aqua’s present intentions, whether the revenue deficiency will be shifted to water
4 customers or wastewater customers, and whether it will be shifted to customers outside the
5 industrial class, such as the residential or commercial classes, will be decided in a base rate
6 case where a customer is receiving service (at a discounted, contract rate) under Rider
7 LWCUR. (Aqua response to OCA-1-5).

8 Q. HOW MANY OF AQUA’S EXISTING CUSTOMERS WOULD BE ELIGIBLE
9 FOR SERVICE UNDER RIDER LWCUR?

10 A. Aqua witness Feeney discusses on pages 7 to 8 of her testimony that, currently, only one
11 of Aqua’s existing customers would be eligible for service under Rider LWCUR. However,
12 this customer has indicated that it does not plan to apply for service under the Rider.

13 Q. ARE THERE OTHER POTENTIAL CUSTOMERS THAT MAY BE ELIGIBLE
14 FOR A DISCOUNTED RATE UNDER RIDER LWCUR IN THE FUTURE?

15 A. Yes. Aqua witness Feeney addresses this on pages 7 and 8 of her testimony. Aqua is
16 currently before this Commission in Docket No. A-2019-3015173 pursuing the acquisition
17 of the wastewater system of the Delaware County Regional Water Quality Control
18 Authority (“DELCORA”). The Company claims that there are currently two DELCORA
19 customers that would be eligible for service under Rider LWCUR. Aqua has filed another
20 application to acquire the wastewater system of the City of Beaver Falls in Docket No. A-
21 2022-3033138 and identifies at least two additional potential customers that could qualify
22 under Rider LWCUR based on usage.

1 Q. HAS AQUA QUANTIFIED THE IMPACT OF THE REVENUE DEFICIENCY
2 RESULTING FROM RIDER LWCUR ON ITS REVENUES?

3 A. Aqua calculated that if the one existing customer that is eligible for service under Rider
4 LWCUR negotiated a 10% discount from current tariffed rates, it would result in an annual
5 revenue decrease of \$2,615 based on prior year consumption. (Aqua response to OCA-1-
6 3). Aqua also ran a calculation for one of the two potential customers from the DELCORA
7 system, and calculated that if that customer negotiated a 10% discount from the rate it
8 currently pays DELCORA for service – which is itself a contract rate,¹ that discount would
9 result in a decrease in annual revenues of \$502,058. (Aqua response to OSBA-I-2). Full
10 tariffed rates for this customer could be higher depending on the indicated cost of service
11 under Aqua ownership, which would have the effect of increasing the revenue deficiency
12 driven by a hypothetical 10% discount.

13 Q. SHOULD RIDER LWCUR BE APPROVED BY THE COMMISSION?

14 A. No. Aqua has not shown that the Rider is necessary. There are no current Aqua customers
15 that have expressed an interest in service under Rider LWCUR. It is not certain if or when
16 Aqua will obtain large industrial customers who may be eligible, from DELCORA, City
17 of Beaver Falls, or other acquisitions that have not been approved by the Commission.

18 Critically, Aqua has not shown that, for wastewater, there is a “viable competitive
19 alternative to service from the Company.” When asked for examples, Aqua said it would
20 expect to see (1) an alternative treatment facility or hauled wastewater at a cost lower than
21 the Company’s tariffed rates or (2) a customer leaving the area to receive service at a lower
22 cost. In addition to the ongoing costs for wastewater service, those alternatives would likely

¹ Aqua would be assuming an existing agreement of DELCORA when the DELCORA transaction closes. (Aqua response to OSBA-I-4). My understanding of the operation of Section 1329 is that those rates would apply to the acquired customer until the Commission approves new rates in Aqua’s first base rate case that includes the DELCORA system assets.

1 require significant upfront investment to install a treatment facility or accommodate
2 wastewater hauling (and obtain necessary regulatory approvals) or move the industry to a
3 different site. Aqua has not shown that these possibilities are feasible or probable. That
4 may be why the Commission has not previously approved a wastewater tariff that provides
5 for discounted rates for customers with competitive alternatives (Aqua response to OCA-
6 1-9). Aqua also admits that, to its knowledge, no other state public utility commissions
7 have approved discounted rates for wastewater customers with viable competitive
8 alternatives. (Aqua response to OCA-1-10).

9 In addition, since no existing Aqua customers have expressed an interest in Rider
10 LWCUR, it is not possible to evaluate and examine the circumstances associated with any
11 potential customer's alternative to assess whether the proposed terms and conditions of
12 Rider LWCUR are reasonable, and protect the interests of Aqua's remaining customers
13 that may be responsible for any revenue deficiency resulting from a Rider LWCUR service
14 agreement. As such, the Commission should reject Rider LWCUR. If an existing Aqua
15 large industrial customer expresses an interest and identifies competitive alternative
16 wastewater service options, Aqua can seek Commission approval at that time, when facts
17 are available to evaluate its request.

18 Q. WHAT ABOUT AQUA'S CONCERN (PAGES 7-8 OF MS. FEENEY'S
19 TESTIMONY) THAT IT NEEDS FLEXIBILITY TO RETAIN CUSTOMERS
20 IN NEW SERVICE AREAS THAT IT ACQUIRES, SHOULD THOSE
21 CUSTOMERS HAVE ALTERNATIVES TO SERVICE?

22 A. When the acquisition is under Section 1329, like DELCORA and Beaver Falls, the
23 customers' existing rates are adopted by the acquiring utility until the Commission sets
24 new rates in a base rate case. Whether or not the customer's system is acquired under
25 Section 1329, large industrial customers often participate in wastewater base rate cases to

1 advocate for lower tariffed rates and favorable rate design. Also, the issue that customers
2 pay lower rates to the selling utility than the buying utility is not limited to industrial
3 customers. All types of customers may face future rate increases to bring their rates to cost
4 of service under Aqua ownership and Aqua has means to address that issue instead of
5 negotiating rates that are less than tariffed rates.

6 Q. IF THE COMMISSION DOES NOT ADOPT YOUR RECOMMENDATION
7 TO REJECT RIDER LWCUR AT THIS TIME, ARE THERE
8 MODIFICATIONS TO RIDER LWCUR THAT WOULD BE APPROPRIATE?

9 A. Yes. The Rider LWCUR tariff provides for the following with respect to a demonstration
10 by a potential customer that they are eligible for service under Rider LWCUR:

11 The Company shall require documentation to establish, to the Company's
12 satisfaction, the existence of a competitive alternative along with any other
13 applicable qualifying condition stated above. Such documentation may
14 include, but is not limited to an affidavit of the customer or if, the customer
15 is a corporation, an affidavit of one of more of its senior managers or its
16 officer.

17 I do not believe an affidavit by a customer is adequate to demonstrate the legitimacy
18 of a competitive alternative. Before agreeing to a discounted rate under Rider
19 LWCUR, Aqua should be required to request and review written documentation
20 including service agreements, feasibility studies, cost-benefit analyses, etc., that
21 show evaluation and assessment of the costs of the facilities necessary for the
22 customer to take service under the competitive alternative. This is consistent with
23 practice in other industries where contract rates are permitted. For example, when
24 natural gas distribution companies ("NGDCs") review their larger customers'
25 competitive alternatives, they routinely evaluate the cost of connecting those
26 customers' facilities with an alternative service provider, and these evaluations are
27 routinely examined in base rate proceedings for reasonableness and to determine

1 whether the utility exercised due diligence. The Rider LWCUR tariff should require
2 documentation in addition to an affidavit. If the Commission approves the Rider,
3 the tariff should be revised to affirmatively require information adequate to
4 demonstrate that a competitive alternative is not only viable but probable in the
5 absence of a negotiated rate. Specifically, if approved, the language should be
6 modified to read:

7 The Company shall require documentation to establish, to the
8 Company's satisfaction, the existence of a competitive alternative
9 along with any other applicable qualifying condition stated above.
10 Such documentation **will at minimum include a feasibility study,**
11 **cost-analysis or bid(s) for alternative service and** may include,
12 **but is not limited to** an affidavit of the customer or if, the customer
13 is a corporation, an affidavit of one of more of its senior managers
14 or its officer.

15 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

16 A. Yes, it does. I reserve the right to modify my testimony if additional information is
17 received.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC	:	
UTILITY COMMISSION	:	
	:	
v.	:	DOCKET NO. R-2022-3037141
	:	
AQUA PENNSYLVANIA	:	
WASTEWATER, INC.	:	

EXHIBIT CONTAINING THE INTERROGATORY RESPONSES
 REFERENCED IN THE DIRECT TESTIMONY
 OF
 JEROME D. MIERZWA

ON BEHALF OF THE
 PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

MARCH 20, 2023

AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. R-2022-3037141

OFFICE OF SMALL BUSINESS ADVOCATE

SET I INTERROGATORIES

OSBA-I-3 Reference the Company's response to OCA-I-5. If proposed Rider LWCUR were to be approved, please explain whether Aqua would be permitted to seek Commission approval of a *newly* negotiated Rider LWCUR contract outside the context of a base rate proceeding? If so, please discuss how Aqua intends to request approval of a negotiated Rider LWCUR contract outside of a base rate proceeding.

RESPONSE

Similar to contracts negotiated under Aqua Pennsylvania, Inc.'s water Rider DIS, Aqua would negotiate a contract and file the contract with the Commission under confidential cover within thirty days of execution as described in the last paragraph of the Rider LWCUR. Any contract entered into under Rider LWCUR could be reviewed in a base rate case, or when the contract is filed if the Commission initiates a review of the agreement.

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-4 How does Aqua intend to recover the revenue deficiency resulting from its proposed Rider LWCUR?

RESPONSE

Aqua intends to recover the revenue deficiency resulting from its proposed Rider LWCUR from its larger customer base.

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-6 Does Aqua intend to shift any of the revenue deficiency resulting from its proposed Rider LWCUR to its water customers?

RESPONSE

No, Aqua does not intend to shift any of the revenue deficiency resulting from its proposed Rider LWCUR to its water customers.

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-5 Does Aqua intend to shift any of the revenue deficiency resulting from its proposed Rider LWCUR to other classes of wastewater customers, such as residential and/or commercial customers?

RESPONSE

Any shifting of the revenue deficiency resulting from the proposed Rider LWCUR would be dependent upon the results of the cost of the service study performed in a future Company base rate case that includes a customer with an agreement under Rider LWCUR.

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-3 If all of Aqua's current Large Industrial Water Customers successfully meet the criteria established in proposed Rider LWCUR, please quantify how Aqua's revenues would be impacted by a 10% discount from current tariffed rates.

RESPONSE

Assuming that the question pertains to the one current Aqua customer that meets the requirements to qualify as a Large Industrial Wastewater Customer, a 10% discount from current tariffed rates will result in an annual revenue decrease of \$2,615 based on prior year consumption.

AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. R-2022-3037141

OFFICE OF SMALL BUSINESS ADVOCATE

SET I INTERROGATORIES

OSBA-I-4 Reference the Company's response to OCA-I-14. To date, has Aqua entered into negotiations with Kimberly-Clark regarding a discounted rate, subject to the approval of proposed Rider LWCUR? Has Aqua and Kimberly-Clark reached agreement on any terms and/or conditions to be applicable to the proposed contract? If so, please identify all such terms and/or conditions.

RESPONSE

Aqua would be assuming an existing agreement of DELCORA when the DELCORA transaction closes. Please see CONFIDENTIAL OSBA-I-4 Attachment 1.

Confidential Attachment to OSBA-I-4 Not Included

AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. R-2022-3037141

OFFICE OF SMALL BUSINESS ADVOCATE

SET I INTERROGATORIES

OSBA-I-2 Reference the Company’s response to OCA-I-3. Please quantify how Aqua’s base wastewater revenues would be impacted by a hypothetical 10% discount to the current tariff rates applicable to Kimberly-Clark Corporation and Kimberly-Clark Pennsylvania, LLC (“Kimberly-Clark”), in the event that Kimberly-Clark were to meet the discount criteria contained in proposed Rider LWCUR.

RESPONSE

Assuming the consumption that Kimberly Clark is projected to have used in 2022 and the rate that Kimberly Clark is currently paying for service, a 10% discount to Kimberly Clark’s rate would result in a decrease in revenues of \$502,057.50.

$$3.93 - (0.1 \times 3.93) = 3.537$$

$$3.537 \times 1,277,500 \text{ KG} = \$4,518,517.50$$

$$\$5,020,575 - 502,057.50 = \$4,518,517.50$$

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-9 To Aqua's knowledge, has the Pennsylvania PUC approved a wastewater tariff that allows discounted rates for customers with viable competitive alternatives? If so, please provide the docket number and date of the Order or a link to the Order posted on the Commission's website.

RESPONSE

No, however, water utilities have had Riders in place for years that have allowed discounted rates for a variety of circumstances including Industrial Standby Rate, Resale and Electric Generation Standby Rate, Demand Based Industrial Service, Demand Base Resale Service, Electric Generation Service, and Off-Peak/Interruptible Rate Service.

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-10 To Aqua's knowledge, has any other state public utility commission approved a wastewater tariff that allows discounted rates for customers with viable competitive alternatives? If so, please provide the docket number and date of the Order or a link to the Order posted on that commission's website.

RESPONSE

Aqua is not currently aware of any other state public utility commissions that have approved discounted rates for wastewater customers with viable competitive alternatives.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2022-3037141
	:	C-2023-3037579
Aqua Pennsylvania Wastewater, Inc.	:	

VERIFICATION

I, Erin M. Feeney, being Manager of Rates for Aqua Pennsylvania, Inc. (“Aqua”), hereby state that I am sponsoring the following interrogatory responses in this proceeding: OCA-I-1, OCA-I-2, OCA-I-3, OCA-I-4, OCA-I-5, OCA-I-6, OCA-I-7, OCA-I-8, OCA-I-9, OCA-I-10, OCA-I-11, OCA-I-12, OCA-I-13, OCA-I-14, OCA-II-1, OSBA-I-1, OSBA-I-2, OSBA-I-3, and OSBA-I-4 (**CONFIDENTIAL**). I hereby state that the aforementioned interrogatory responses are true and correct to the best of my knowledge, information, and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 3/20/23


Erin M. Feeney

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Aqua Pennsylvania Wastewater, Inc.

Docket No. R-2022-3037141

VERIFICATION

I, Jerome D. Mierzwa, hereby state that the facts set forth in my Direct Testimony, OCA Statement 1, are true and correct (or 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 herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: March 20, 2023
*343018

Signature:


Jerome D. Mierzwa

Consultant Address: Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044-3575

OCA STATEMENT 1SR

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC	:	
UTILITY COMMISSION	:	
	:	
v.	:	DOCKET NO. R-2022-3037141
	:	
AQUA PENNSYLVANIA	:	
WASTEWATER, INC.	:	

SURREBUTTAL TESTIMONY

OF

JEROME D. MIERZWA

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

April 7, 2023

SURREBUTTAL TESTIMONY OF JEROME D. MIERZWA

I. INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Jerome D. Mierzwa. I am a Principal with and Vice President of Exeter Associates, Inc. (“Exeter”). My business address is 10480 Little Patuxent Parkway, Suite 300, Columbia, Maryland 21044. Exeter specializes in providing public utility-related consulting services.

Q. HAVE YOU PREVIOUSLY PRESENTED TESTIMONY IN THIS PROCEEDINGS?

A. Yes. My Direct Testimony was submitted as OCA Statement 1 on March 30, 2023.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my Surrebuttal Testimony is to respond to the Rebuttal Testimony filed by Aqua Pennsylvania Wastewater, Inc. (“Aqua”) witness William C. Packer.

Q. DO YOU HAVE ANY EXHIBITS?

A. Yes, Exhibit JDM-1 contains the Aqua discovery responses that I reference in my testimony. One response was provided with an attachment that Aqua marked confidential. That attachment is not included in Exhibit JDM-1.

1 **II. RESPONSE TO AQUA WITNESS PACKER**

2 Q. IN YOUR DIRECT TESTIMONY YOU RAISED CONCERNS THAT NO
3 CURRENT AQUA CUSTOMERS HAVE EXPRESSED AN INTEREST IN
4 RECEIVING SERVICE UNDER RIDER LWCUR, AND IT IS NOT CERTAIN
5 THAT IN THE FUTURE THERE WILL BE CUSTOMERS ELIGIBLE FOR
6 SERVICE UNDER RIDER LWCUR. WHAT WAS MR. PACKER’S GENERAL
7 RESPONSE?

8 A. On pages 4 and 5 of his Rebuttal Testimony, Mr. Packer claims that Rider LWCUR could
9 be necessary for existing Aqua customers who may, in the future, have an option for
10 alternative wastewater service, or for customers that Aqua may acquire that may have an
11 option for alternative wastewater service then or in the future.

12 Q. WHAT IS YOUR RESPONSE TO MR. PACKER’S CLAIM?

13 A. Again, no current Aqua customer has expressed an interest in receiving service under Rider
14 LWCUR. Aqua is trying to solve a speculative problem that does not currently exist. The
15 Company has not established a need for discounted rates. The actual loss of a customer is
16 not known or certain. Contrary to Mr. Packer’s contention, that such a hypothetical loss
17 “will” increase costs to Aqua’s other customers is also not known or certain.¹ It is known
18 and certain that if Aqua is permitted to offer discounted wastewater rates, customers taking
19 service at discounted rates will increase the costs to be recovered from customers paying
20 tariffed rates in subsequent base rate cases. Allowing discounted wastewater rates, use of
21 which will cause known harm, in response to a speculative, future harm is not reasonable.
22 Aqua should not be permitted to have a rider in its tariff that is not currently needed but
23 becomes a self-fulfilling prophecy because customers who had no intention of exploring

¹ As recognized by Aqua, the provision of wastewater service has variable costs, which indicates there would be decreased costs if a customer left the system. Aqua St. 1 at 4-5. Also, some of the facilities serving that customer may no longer be useful in the provision of utility service. The revenue requirement associated with those facilities which are not used and useful should not be recovered from other wastewater customers.

1 alternative service are enticed to request a discounted rate. Aqua has other means to incent
2 large customers to take or continue service from Aqua that do not put other customers at
3 risk for rate increases. It could, for example, incent large customers by not increasing
4 overall rates, or by increasing rates a lesser amount in future rate cases by electing to use a
5 capital structure with less equity or by choosing to acquire systems that generate a lower
6 additional revenue requirement per customer.

7 Q. ON PAGES 9 AND 10, MR. PACKER CLAIMS THAT DENYING RIDER
8 LWCUR IN THIS PROCEEDING WOULD FUNCTIONALLY “KICK-THE-
9 CAN” DOWN THE ROAD. WHAT IS YOUR RESPONSE?

10 A. Aqua acquiring wastewater systems is not new and Aqua has significant control over when
11 and which wastewater systems it chooses to acquire. What Mr. Packer characterizes as
12 being “proactive” and “novel” is not a reason to approve a new rate that Aqua has not
13 otherwise been shown to need. As stated in my Direct Testimony, since no existing Aqua
14 customer has expressed an interest in Rider LWCUR, it is not possible to evaluate and
15 examine the circumstances associated with any potential customer’s alternative to assess
16 whether the proposed terms and conditions of Rider LWCUR are reasonable, and protect
17 the interests of Aqua’s remaining customers that may be responsible for any revenue
18 deficiency resulting from a Rider LWCUR service agreement. As such, the Commission
19 should reject Rider LWCUR. If an existing Aqua large industrial customer expresses an
20 interest and identifies viable competitive alternative wastewater service options, Aqua can
21 seek Commission approval at that time, when the facts are available to evaluate the request.
22 Mr. Brian Kalcic on behalf of the Office of Small Business Advocate also recommends
23 that Rider LWCUR should be rejected without prejudice at this time. OSBA St. 1 at 4-5.

1 Q. MR. PACKER ACKNOWLEDGES THAT THE COMMISSION HAS NOT
2 PREVIOUSLY ALLOWED A WASTEWATER UTILITY TO PROVIDE
3 DISCOUNTED RATES BUT ARGUES THAT UTILITIES IN OTHER
4 INDUSTRIES, INCLUDING AQUA WATER, HAVE TARIFF PROVISIONS
5 SIMILAR TO RIDER LWCUR. IS THAT A REASON TO APPROVE THE
6 RIDER?

7 A. No. Aqua has not shown that alternatives to wastewater service, specifically, are feasible
8 or probable. For some industrial customers the characteristics, constituents or volume or
9 quantities of the waste can require pretreatment.² This requirement for additional
10 processing makes it even more uncertain that a lesser cost alternative to continuing or
11 taking wastewater service from Aqua exists. Regarding Aqua Water, the Commission first
12 approved its Rider DIS in a base rate proceeding, when an existing customer requested a
13 discounted rate. (Aqua responses to OCA-3-1, OCA-3-2, OCA-3-3). In that proceeding,
14 evidence was provided and evaluated regarding the alternative source of water supply and
15 the cost impact of the negotiated rate on other customers.³ That type of evidence and
16 evaluation are not available in this proceeding.

17 Q. IS MR. PACKER'S CLAIM THAT THERE WILL BE NO IMMEDIATE RATE
18 IMPACT A REASON TO APPROVE THE RIDER?

19 A. No. If a customer takes service under Rider LWCUR, Aqua intends to recover the revenue
20 deficiency from other customers in its base rate cases. (Aqua response to OCA-1-4,
21 attached to my Direct Testimony). For Aqua Water, the 2022 revenue deficiency resulting
22 from the three customers taking service under Rider DIS represented more than 25% of the

² Supplement No. 10 to Aqua PA Tariff-Sewer-PA P.U.C. No. 3 at original page 38.
https://www.aquawater.com/_assets/doc/supplement-no.-10---tariff-sewer-pa-puc-no.-3.pdf

³ Pa. PUC v. Consumers Pennsylvania Water Co. - Roaring Creek Division, R-00973869, 1997 Pa. PUC LEXIS 93 (October 14, 1997).

1 total revenue from the Industrial class.⁴ (Aqua responses to OCA-3-5, OCA-3-6, OCA-3-
2 7).

3 Q. MR. PACKER CLAIMS THAT IF RIDER LWCUR IS NOT IN PLACE
4 BEFORE IT POTENTIALLY ACQUIRES A SYSTEM WITH AN
5 OTHERWISE ELIGIBLE CUSTOMER, CUSTOMERS COULD OPT TO
6 OBTAIN ALTERNATIVE SERVICE OR LEAVE AQUA'S SERVICE
7 TERRITORY. WHAT IS YOUR RESPONSE?

8 A. The potential acquisitions that Mr. Packer and Ms. Feeney reference (DELCORA, City of
9 Beaver Falls) are under Section 1329 of the Public Utility Code, which I understand to
10 mean that those customers' existing rates (whether or not established by contract) would
11 remain in effect until Aqua's next rate case at which time the reasonableness of continuing
12 that discounted rate, establishing a new discounted rate, or eliminating the discounted rates
13 can be evaluated.

14 Q. MR. PACKER ALSO CLAIMS THAT AN ALTERNATIVE TO AQUA'S
15 WASTEWATER SERVICE COULD ARISE BETWEEN BASE RATE CASES
16 AND BEFORE THE CUSTOMER'S RATE CONCERNS COULD BE
17 ADDRESSED IN A BASE RATE CASE, CAUSING AQUA TO LOSE THAT
18 CUSTOMER'S RATE REVENUE ALTOGETHER. WHAT IS YOUR
19 RESPONSE?

20 A. Mr. Packer's claims suggest that a large industrial customer would make and act quickly
21 on a decision about disconnecting from a public wastewater system or physically relocating
22 its large industrial facility to a different service territory. That is not a reasonable
23 assumption. Also, there is not that much time between base rate cases. In its 2021 base rate
24 case, Aqua indicated it would file its next base rate case in 2024. Further, Aqua supported

⁴ \$5,716,000 ÷ \$21,230,561 = 26.9%.

1 use of three years for normalizing expenses on the basis that intervals of longer duration
2 were not likely.⁵

3 Q. MR. PACKER ARGUES THAT THE BASE RATE PROCESS IS NOT WELL
4 SUITED TO ADDRESS A CUSTOMER THAT HAS OTHER
5 ALTERNATIVES NOT AVAILABLE TO EVERY MEMBER OF THE CLASS
6 THAT ARE LOWER COST THAN THE AVERAGE COST TO SERVE THE
7 ENTIRE CLASS. DO YOU AGREE?

8 A. No. If there are differences in the availability of competitive alternatives then there may
9 also be differences in the characteristics of that customer that could justify differences in
10 tariffed rates. We do not have those facts which, again, is the underlying problem with
11 trying to address the need for the rider when no existing Aqua wastewater customer has
12 requested it.

13 Q. MR. PACKER DISAGREES WITH YOUR PROPOSED MODIFICATION TO
14 RIDER LWCUR IF THE COMMISSION DOES APPROVE RIDER LWCUR.
15 WHAT MODIFICATIONS DID YOU PROPOSE TO RIDER LWCUR?

16 A. The Company's original proposed language for Rider LWCUR, and my proposed
17 modifications which are highlighted are as follows:

18 The Company shall require documentation to establish, to the Company's
19 satisfaction, the existence of a competitive alternative along with any other
20 applicable qualifying condition stated above. Such documentation **will at**
21 **minimum include a feasibility study, cost-analysis or bid(s) for alternative**
22 **service and** may include, ~~but is not limited to~~ an affidavit of the customer or if,
23 the customer is a corporation, an affidavit of one of more of its senior managers or
24 its officer.

⁵ Pa. PUC v. Aqua Pennsylvania, Inc., R-2021-3027385, Order at 89 (May 16, 2022).

1 Q. WHAT WAS MR. PACKER'S RESPONSE TO YOUR PROPOSED
2 LANGUAGE MODIFICATIONS?

3 A. On page 8 of his Rebuttal Testimony, Mr. Packer claims that riders similar to Rider
4 LWCUR have been approved for other industries and there is no need to reinvent the wheel.
5 He claims that the contract will be subject to review in the next base rate case and, until
6 that time, the reduction in revenue will fall entirely on the Company and not on existing
7 customers.

8 Q. WHAT IS YOUR RESPONSE TO MR. PACKER?

9 A. If Aqua is not requiring the type of documentation that I recommended to establish the
10 existence of a competitive alternative for its water Rider DIS then that is a concern that can
11 be avoided for wastewater by clarifying what documentation is required for Rider
12 LWCUR. Also, as discussed above, there are fundamental differences between wastewater
13 service and other types of utility service and, Aqua has not demonstrated any current need
14 for a wastewater rider. As such, if Rider LWCUR is approved, the tariff should be revised
15 to affirmatively require information adequate to demonstrate that a competitive alternative
16 is not only viable but probable in the absence of a negotiated rate.

17 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

18 A. Yes, it does. I reserve the right to supplement my testimony if additional information is
19 received.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC	:	
UTILITY COMMISSION	:	
	:	
v.	:	DOCKET NO. R-2022-3037141
	:	
AQUA PENNSYLVANIA	:	
WASTEWATER, INC.	:	

EXHIBIT CONTAINING THE INTERROGATORY RESPONSES
REFERENCED IN THE SURREBUTTAL TESTIMONY

OF

JEROME D. MIERZWA

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

April 7, 2023

Respondent: William C. Packer
Date: 04/05/2023

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET III INTERROGATORIES

OCA-III-1 Reference Aqua WCP-IR Exhibit A. Please provide the Commission docket number in which Aqua Water's Rider DIS was initially approved and on what date the approving order was entered.

RESPONSE

The Commission first approved Rider DIS for Aqua's Roaring Creek division on October 14, 1997 at Docket No. R-00973869.

Respondent: William C. Packer
Date: 04/05/2023

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET III INTERROGATORIES

OCA-III-2 At the time the Aqua Water's Rider DIS was reviewed and approved by the Commission, did Aqua Water have existing customers who were eligible for the discount? If so, how many customers were eligible for the discount?

RESPONSE

Yes. The request for the Rider DIS was for a specific customer in the Roaring Creek Division.

Respondent: William C. Packer
Date: 04/05/2023

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET III INTERROGATORIES

OCA-III-3 At the time Aqua Water's Rider DIS was reviewed and approved by the Commission, please identify whether any customers that would be eligible under the Rider requested a discounted rate for service. If so, how many customers requested the discounted rate?

RESPONSE

The Company's customer, Foster Wheeler, requested a discounted rate.

Respondent: William C. Packer
Date: 04/05/2023

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET III INTERROGATORIES

OCA-III-5 Currently, how many customers does Aqua Water serve under its Rider DIS?

RESPONSE

Three customers are served under Rider DIS.

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET III INTERROGATORIES

OCA-III-6 For 2022, what was the total annual revenue deficiency resulting from discounted rates under Aqua Water's Rider DIS?

- a. Provide a breakdown, by customer class, showing how the revenue deficiency was recovered from other Aqua Water customers.

RESPONSE

The total annual revenue deficiency resulting from discounted rates under Aqua's Rider DIS for 2022 was \$5,716,000 assuming that these customers would be Rate Zone 1 customers and not subject to the discounted Rider DIS rates. The Company does not break out how the revenue deficiency is recovered from other Aqua water customers.

AQUA PENNSYLVANIA, INC.
DOCKET NO. R-2022-3037141
OFFICE OF CONSUMER ADVOCATE
SET III INTERROGATORIES

OCA-III-7 For 2022, what was Aqua Water’s revenue from all customer classes, in total and by class?

RESPONSE

Aqua Pennsylvania 2022 Water Operating Revenues Customer Class	
Residential	\$ 347,117,185.16
Commercial	124,004,393.39
Industrial	21,230,561.82
Public	10,295,646.18
Fire	23,859,725.41
Bulk	147,607.31
Sales for Resale	3,368,603.27
DSIC	12,787,683.28
MISC Rev	1,922,528.26
Total	\$ 544,733,934.08

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Office of Consumer Advocate	:	
v.	:	R-2022-3037141
	:	C-2023-3037579
Aqua Pennsylvania Wastewater, Inc.	:	

VERIFICATION

I, William C. Packer, being Vice President Regulatory Accounting and Regional Controller for Essential Utilities, Inc., hereby state that I am sponsoring the following interrogatory responses in this proceeding: OCA-III-1, OCA-III-2, OCA-III-3, OCA-III-4, OCA-III-5, OCA-III-6, and OCA-III-7. I hereby state that the aforementioned interrogatory responses are true and correct to the best of my knowledge, information, and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: April 6, 2023

William C. Packer

William C. Packer

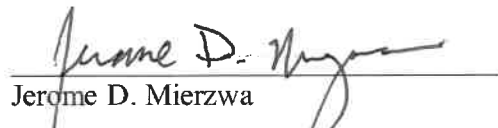
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2022-3037141
	:	
Aqua Pennsylvania Wastewater, Inc.	:	

VERIFICATION

I, Jerome D. Mierzwa, hereby state that the facts set forth in my Surrebuttal Testimony, OCA Statement 1SR, are true and correct (or 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 herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: April 7, 2023
*343944

Signature: 
Jerome D. Mierzwa

Consultant Address: Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044-3575



COMMONWEALTH OF PENNSYLVANIA

March 20, 2023

E-FILED

The Honorable Gail Chiodo
Administrative Law Judge
Pennsylvania Public Utility Commission
Suite 4063, 801 Market Street
Philadelphia, PA 19107

**Re: Pennsylvania Public Utility Commission v. Aqua Pennsylvania Wastewater, Inc.
(Supplement No. 3 to Tariff Sewer-PA PUC No. 3) / Docket No. R-2022-3037141**

Dear Judge Chiodo:

Enclosed please find the Direct Testimony and Exhibits, and Verification, of Kevin C. Higgins, labeled OSBA Statement No. 1 and Exhibit, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)
Brian Kalcic
Nakea S. Hurdle
Parties of Record

OSBA STATEMENT NO. 1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION :
: **Docket No. R-2022-3037141**
v. :
: **AQUA PENNSYLVANIA WASTEWATER, INC.** :

Direct Testimony and Exhibit of

BRIAN KALCIC

On Behalf of the

Pennsylvania Office of Small Business Advocate

Topics:

Proposed Rider LWCUR

Date Served: March 20, 2023

Date Submitted for the Record: April 14, 2023

1 **Q. Please state your name and business address.**

2 A. Brian Kalcic, 7330 Dorset Avenue, St. Louis, Missouri 63130.

3

4 **Q. What is your occupation?**

5 A. I am an economist and consultant in the field of public utility regulation, and
6 principal of Excel Consulting. My qualifications are described in the Appendix to
7 this testimony.

8

9 **Q. On whose behalf are you testifying in this case?**

10 A. I am testifying on behalf of the Office of Small Business Advocate (“OSBA”),
11 which is representing the small business customers served by Aqua Pennsylvania
12 Wastewater, Inc. (“Aqua” or the “Company”).

13

14 **Q. What is the subject of your testimony?**

15 A. I will review the Company’s proposed Rider LWCUR – Large Wastewater
16 Customer User (“Rider LWCUR”) and discuss why the Commission should decline
17 to approve Rider LWCUR at this time.

18

19 **Proposed Rider LWCUR**

20

21 **Q. Mr. Kalcic, why is Aqua proposing to implement Rider LWCUR?**

22 A. In Aqua’s view, certain large industrial customers taking wastewater service from
23 the Company may opt not to take service from Aqua should a competitive
24 alternative wastewater service exist. The purpose of proposed Rider LWCUR is to

1 permit Aqua to incent such customers to continue to take wastewater service from
2 the Company by offering to serve the customer at a discount to its otherwise
3 applicable tariff rate.¹

4

5 **Q. What customers would be eligible to receive a rate discount under proposed**
6 **Rider LWCUR?**

7 A. Proposed Rider LWCUR would be available to qualifying large industrial
8 wastewater customers. The key eligibility provisions of the proposed rider are as
9 follows: **1)** the customer must discharge at least 85,000 gallons of wastewater
10 resulting from industrial processes into Aqua’s wastewater collection system; **2)** the
11 term of any Service Agreement must not be less than 3 years; and **3)** the customer
12 must have a viable competitive alternative to taking service from Aqua, which the
13 customer intends to utilize, absent the establishment of a discounted rate for
14 continuing utility service.²

15

16 **Q. How many large industrial wastewater customers, as defined in proposed**
17 **Rider LWCUR, does Aqua currently serve?**

18 A. The Company currently serves one such customer. However, Aqua indicates that
19 “the customer has stated that it does not plan to participate in the rider should it be
20 approved.”³

21

¹ See Aqua Statement No. 1 at page 5.

² See Aqua Statement No. 1 at page 3.

1 **Q. If Aqua does not currently serve any large industrial wastewater customers**
2 **that possess a viable economic alternative to taking wastewater service from**
3 **the Company, why did Aqua file for approval of the proposed Rider LWCUR**
4 **at this time?**

5 A. Aqua filed the proposed rider pursuant to a Joint Stipulation with Kimberly-Clark
6 Corporation and Kimberly-Clark Pennsylvania, LLC (collectively, “Kimberly-
7 Clark”) that was filed at Docket No. A-2019-3015173, in which Aqua is seeking
8 approval of its proposed acquisition of the wastewater system assets of the
9 Delaware County Regional Water Quality Control Authority (“DELCORA”).⁴

10 If the Company’s application at Docket No. A-2019-3015173 is approved,
11 Aqua would assume a previously negotiated service agreement between
12 DELCORA and Kimberly-Clark upon the closing of the transaction.⁵ However,
13 upon expiration of the assumed service agreement, Kimberly-Clark would be
14 eligible to apply for a negotiated or discounted rate for wastewater service from
15 Aqua, pursuant to Rider LWCUR.

16

17 **Q. What is the present status of Aqua’s application at Docket No. A-2019-**
18 **3015173?**

19 A. Counsel advises that proceedings in Docket No. A-2019-3015173 are currently
20 stayed, pending the disposition of separate complaints that have been filed in the

³ See Aqua Statement No. 1 at page 7.

⁴ See Aqua’s response to OCA-I-13.

⁵ See Aqua’s response to OSBA-I-4.

1 Court of Common Pleas of Delaware County and the Bankruptcy Court for the
2 Eastern District of Pennsylvania.

3

4 **Q. To date, has Aqua entered into negotiations with Kimberly-Clark regarding a**
5 **discounted rate for wastewater service, subject to approval of proposed Rider**
6 **LWCUR?**

7 A. No.⁶

8

9 **Q. To date, has Aqua prepared a service agreement with any current or**
10 **prospective large industrial wastewater customer that includes a discounted**
11 **rate for wastewater service, subject to approval of proposed Rider LWCUR?**

12 A. No, it has not.⁷

13

14 **Q. Has Aqua provided any evidence that Kimberly-Clark currently possesses a**
15 **viable economic alternative to taking wastewater service from the Company?**

16 A. No.

17

18 **Q. In light of the above, is it reasonable to conclude that Aqua's proposed Rider**
19 **LWCUR is necessary to prevent economic bypass of the Company's**
20 **wastewater system at this time?**

⁶ *Id.*

⁷ See Aqua's response to OCA-I-14.

Direct Testimony of Brian Kalcic

1 A. No. First, Aqua states that it does not currently serve any large industrial
2 wastewater customer with a viable economic alternative to taking service from the
3 Company. Second, Aqua has not presented any evidence that any known
4 *prospective* industrial customer may bypass the Company's system, absent the
5 ability of Aqua to negotiate a discounted rate for wastewater service.

6

7 **Q. Do you have any other comment on the proposed rider?**

8 A. Yes. Apparently, the only reason that Aqua filed for approval of proposed Rider
9 LWCUR at this time is that its Joint Stipulation with Kimberly-Clark that was filed
10 at Docket No. A-2019-3015173 required that it do so. In the OSBA's view, a
11 stipulation with an entity that is not, and may not ever be, an Aqua wastewater
12 customer does not constitute a valid rationale for amending the Company's
13 wastewater tariff at this time.

14

15 **Q. Should the Commission approve Aqua's proposed Rider LWCUR?**

16 A. No, the Commission should reject it without prejudice.

17

18 **Q. Does this conclude your direct testimony?**

19 A. Yes.

EXHIBIT BK-1

REFERENCED INTERROGATORY RESPONSES

OCA-I-13

OCA-I-14

OSBA-I-4

Respondent: Erin M. Feeney
Date: 02/15/2023

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-13 Did Aqua file the proposed Rider LWCUR pursuant to the Joint Stipulation with Kimberly-Clark Corporation and Kimberly-Clark Pennsylvania, LLC dated January 28, 2021, and filed at A-2019-3015173?

RESPONSE

Yes.

Respondent: Erin M. Feeney
Date: 02/15/2023

AQUA PENNSYLVANIA, INC.

DOCKET NO. R-2022-3037141

OFFICE OF CONSUMER ADVOCATE

SET I INTERROGATORIES

OCA-I-14 Does Aqua have written service agreements or contracts with any other Large Industrial Wastewater Customers related to Rider LWCUR? If so, please provide a copy.

RESPONSE

No, Aqua does not have written service agreements or contracts with any other Large Industrial Wastewater Customers related to Rider LWCUR.

AQUA PENNSYLVANIA WASTEWATER, INC.

DOCKET NO. R-2022-3037141

OFFICE OF SMALL BUSINESS ADVOCATE

SET I INTERROGATORIES

OSBA-I-4 Reference the Company's response to OCA-I-14. To date, has Aqua entered into negotiations with Kimberly-Clark regarding a discounted rate, subject to the approval of proposed Rider LWCUR? Has Aqua and Kimberly-Clark reached agreement on any terms and/or conditions to be applicable to the proposed contract? If so, please identify all such terms and/or conditions.

RESPONSE

Aqua would be assuming an existing agreement of DELCORA when the DELCORA transaction closes. Please see CONFIDENTIAL OSBA-I-4 Attachment 1.

APPENDIX

APPENDIX

Qualifications of Brian Kalcic

Mr. Kalcic graduated from Benedictine University with a Bachelor of Arts degree in Economics in December 1974. In May 1977 he received a Master of Arts degree in Economics from Washington University, St. Louis. In addition, he has completed all course requirements at Washington University for a Ph.D. in Economics.

From 1977 to 1982, Mr. Kalcic taught courses in economics at both Washington University and Webster University, including Microeconomic and Macroeconomic Theory, Labor Economics and Public Finance.

During 1980 and 1981, Mr. Kalcic was a consultant to the Equal Employment Opportunity Commission, St. Louis District Office. His responsibilities included data collection and organization, statistical analysis and trial testimony.

From 1982 to 1996, Mr. Kalcic was employed by the firm of Cook, Eisdorfer & Associates, Inc. During that time, he participated in the analysis of electric, gas and water utility rate case filings. His primary responsibilities included cost-of-service and economic analysis, model building, and statistical analysis.

In March 1996, Mr. Kalcic founded Excel Consulting, a consulting practice that offers business and regulatory analysis.

Mr. Kalcic has previously testified before the state regulatory commissions of Delaware, Indiana, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Texas, and also before the Bonneville Power Administration.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Aqua Pennsylvania Wastewater, Inc.

:
:
:
:
:

Docket No. R-2022-3037141

VERIFICATION

I, Brian Kalcic, hereby state that the facts set forth in my Direct Testimony labeled OSBA Statement No. 1 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 herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: March 17, 2023



(Signature)

Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 : **Docket No. R-2022-3037141**
 v. :
 :
 :
Aqua Pennsylvania Wastewater, Inc :

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Gail Chiodo
Administrative Law Judge
Pennsylvania Public Utility Commission
Suite 4063, 801 Market Street
Philadelphia, PA 19107
gchiodo@pa.gov

Erin L. Gannon, Esquire
Christopher M. Andreoli, Esquire
Office of Consumer Advocate
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Harrisburg, PA 17101
EGannon@paoca.org
CAndreoli@paoca.org

Michael W. Hassell, Esquire
Nicholas A. Stobbe, Esquire
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nstobbe@postschell.com

Richard Kanaskie, Esquire
Bureau of Investigation & Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
rkanaskie@pa.gov

Erin M. Feeney, Manager, Rates
Alexander R. Stahl, Esquire
Aqua Pennsylvania, Inc.
762 W. Lancaster Ave.
Bryn Mawr, PA 19010
EFDomzalski@AquaAmerica.com
astahl@aquaamerica.com

DATE: March 20, 2023

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538



COMMONWEALTH OF PENNSYLVANIA

April 7, 2023

E-FILED

The Honorable Gail Chiodo
Administrative Law Judge
Pennsylvania Public Utility Commission
Suite 4063, 801 Market Street
Philadelphia, PA 19107

**Re: Pennsylvania Public Utility Commission v. Aqua Pennsylvania Wastewater, Inc.
(Supplement No. 3 to Tariff Sewer-PA PUC No. 3) / Docket No. R-2022-3037141**

Dear Judge Chiodo:

Enclosed please find the Surrebuttal Testimony and Verification, of Brian Kalcic, labeled OSBA Statement No. 1-S, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

As evidenced by the enclosed Certificate of Service, all known parties will be served, as indicated.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)
Brian Kalcic
Nakea S. Hurdle
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION :
: **Docket No. R-2022-3037141**
v. :
: **AQUA PENNSYLVANIA WASTEWATER, INC.** :

Surrebuttal Testimony of

BRIAN KALCIC

On Behalf of the

Pennsylvania Office of Small Business Advocate

Date Served: April 7, 2023

Date Submitted for the Record: April 14, 2023

1 **Q. Please state your name and business address.**

2 A. Brian Kalcic, 7330 Dorset Avenue, St. Louis, Missouri 63130.

3

4 **Q. Have you previously submitted direct testimony in this proceeding?**

5 A. Yes.

6

7 **Q. What is the subject of your surrebuttal testimony?**

8 A. I will response to the rebuttal testimony of Mr. William C. Packer on behalf of the
9 Company.

10

11 **Aqua Witness Packer**

12

13 **Q. On pages 4, and 8-10 of Aqua Wastewater Statement No. 1R, Mr. Packer argues**
14 **that you misunderstand the rationale behind the Company’s proposed Rider**
15 **LWCUR – Large Wastewater Customer User (“Rider LWCUR”). While Mr.**
16 **Packer agrees with the OSBA that Aqua did file the proposed Rider LWCUR “in**
17 **part” due to the Joint Stipulation with Kimberly-Clark Corporation and Kimberly-**
18 **Clark Pennsylvania, LLC (collectively, “Kimberly-Clark”) that was filed at Docket**
19 **No. A-2019-3015173, he argues that Aqua is continually expanding its existing**
20 **service area through acquisitions of additional wastewater systems, which may**
21 **include large industrial customers. Mr. Packer states that Rider LWCUR is**
22 **“designed to incent existing or future eligible customers to continue or begin**
23 **receiving wastewater service from Aqua” and “is not limited to a specific and**
24 **immediate customer’s needs.” What is your response?**

Surrebuttal Testimony of Brian Kalcic

1 A. While I agree that proposed Rider LWCUR is general in nature and not limited
2 specifically to Kimberly-Clark's situation, I am not persuaded that Aqua would have filed
3 proposed Rider LWCUR *at this time*, but for the Joint Stipulation with Kimberly-Clark in
4 Docket No. A-2019-3015173. In other words, while there may be another rationale
5 behind the Company's filing the proposed rider, i.e., to address the theoretical possibility
6 of a future large industrial customer opting out of taking wastewater service from Aqua,
7 the fact remains that the potential for bypass of Aqua's wastewater system is not
8 presently a pressing concern.

9 First, Aqua has not presented any evidence that any known prospective industrial
10 customer may bypass the Company's system, absent the ability of Aqua to negotiate a
11 discounted rate for wastewater service. Second, industrial wastewater volumes must be
12 treated, and absent an industrial customer's ability to convey such volumes to an
13 alternative treatment facility, the opportunities for economic bypass of any wastewater
14 utility's system would appear to be limited, at best. Third, in the arguably unlikely event
15 that a future large industrial customer should approach the Company with evidence that it
16 has a viable economic bypass alternative, Aqua could file a proposed rider to address
17 bypass at that time.

18

19 **Q. Should the Commission approve Aqua's proposed Rider LWCUR?**

20 A. No, in the OSBA's view, the Company's proposed Rider LWCUR represents a solution
21 in search of a problem. I continue to recommend that the Commission reject Rider
22 LWCUR, without prejudice.

23

Surrebuttal Testimony of Brian Kalcic

1 **Q. Does this conclude your surrebuttal testimony?**

2 A. Yes.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

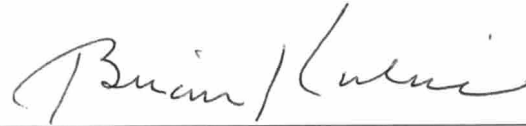
Aqua Pennsylvania Wastewater, Inc.

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:
: **Docket No. R-2022-3037141**
:
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VERIFICATION

I, Brian Kalcic, hereby state that the facts set forth in my Surrebuttal Testimony labeled OSBA Statement No. 1-S 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 herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: April 6, 2023



(Signature)

Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 : **Docket No. R-2022-3037141**
 v. :
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Aqua Pennsylvania Wastewater, Inc :

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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gchiodo@pa.gov

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Aqua Pennsylvania, Inc.
762 W. Lancaster Ave.
Bryn Mawr, PA 19010
EFDomzalski@AquaAmerica.com
astahl@aquaamerica.com

DATE: April 7 2023

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538