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June 16, 2023

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
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Harrisburg, PA 17105-3265

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

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Dear Secretary Chiavetta:

Attached for filing on behalf of Aqua Pennsylvania Wastewater, Inc., are the Exceptions to the Recommended Decision in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Michael W. Hassell

MWH/dmc  
Attachments

cc: Honorable Gail Chiodo (*via email; w/attachment*)  
Office of Special Assistants (*via email*)  
Certificate of Service

## CERTIFICATE OF SERVICE

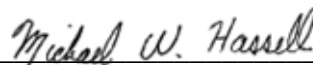
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: June 16, 2023



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Michael W. Hassell

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al.* : Docket Nos. R-2022-3037141, *et al.*  
: :  
v. : :  
: :  
Aqua Pennsylvania Wastewater, Inc. : :

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**EXCEPTIONS OF  
AQUA PENNSYLVANIA WASTEWATER, INC.**

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## **I. INTRODUCTION**

Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”) hereby files these Exceptions to the Recommended Decision dated June 6, 2023 (the “RD”), and issued by Administrative Law Judge Gail M. Chiodo (the “ALJ”). Through this proceeding, Aqua requested that the Pennsylvania Public Utility Commission (“Commission”) approve Supplement No. 3 to Tariff Sewer-PA P.U.C. No. 3 (“Supplement No. 3”). Supplement No. 3 proposed to establish a rider for contract rates for large industrial wastewater customer users with an effective date of February 5, 2023 (“Proposed Rider”).<sup>1</sup>

In the RD, the ALJ recommends that the Commission reject, without prejudice, Supplement No. 3. Alternatively, the ALJ recommends that, if the Commission decides to approve Supplement No. 3, it be conditioned upon an ambiguous change to Supplement No. 3’s tariff language, as suggested by the Office of Consumer Advocate (“OCA”) and, in part, agreed to by Aqua. The RD’s recommended rejection of Supplement No. 3 is premised upon several errors of law that Aqua submits should be carefully reviewed by the Commission. Rejection of Supplement No. 3 without prejudice adopts the primary position proffered by both the OCA and the Office of Small Business Advocate (“OSBA”). Both the OCA and OSBA argue that the Proposed Rider – at this point – is not just and reasonable because, according to the OCA, OSBA, and the RD, Aqua has not demonstrated a current need for the Proposed Rider. This reasoning mistakes the purpose of the Proposed Rider and should be rejected. Approval of the Proposed Rider does not need to await an actual customer request for service. Alternative service opportunities can arise at any time, and Aqua should not be placed in the position to have to scramble to react to a customer’s declaration that they are leaving Aqua’s system, or to seek Commission approval for a negotiated

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<sup>1</sup> Aqua later voluntarily postponed the effective date of Supplement No. 3 until August 17, 2023, via letter filed with the Commission on February 23, 2023.

rate rider to obtain a potential new customer. Aqua is seeking approval of the structure of the Proposed Rider for use in the future to incent eligible existing or future customers to begin or continue to receive service from the Company. This mechanism is necessary to avoid the potential of eligible large customers opting out of Aqua's wastewater service, thereby negatively affecting other Aqua customers' rates more so than had that large customer received slightly discounted service. To that end, the Proposed Rider has been narrowly tailored to restrict eligibility to certain large industrial customers who, among other things, can show a viable alternative to Aqua's wastewater service.

The RD further accepts OCA's and OSBA's contention that approval of the Proposed Rider can await a future rate case after an actual customer informs Aqua of its intent to leave Aqua's system. However, there is no basis to conclude that an eligible customer in the future would forego cheaper alternative service during the pendency of a future proceeding that, like the current proceeding, could take six months or longer to resolve. Further, the RD fails to reconcile why comparable riders are just and reasonable for other utilities – and have been approved by the Commission – but not for Aqua.

Lastly, the RD proposes, as an alternative, that any approval of the Proposed Rider should include alternative tariff language proposed by OCA. However, in support of this alternative language, the RD references Aqua's alternative tariff revisions that would permit Aqua to support a negotiated rate agreement through a feasibility study undertaken by Aqua. OCA's suggested tariff language is without compare in Pennsylvania and has no credible reasoning for its adoption. If any alternative tariff language is necessary, which Aqua denies, it should be the alternative proposed by Aqua.

The Company requests that the Commission review its Main Brief (“MB”) and Reply Brief

(“RB”) for further explanations of its positions as noted herein.

## II. EXCEPTIONS

### A. **EXCEPTION NO. 1 – THE RD’S CONCLUSION THAT AQUA HAS NOT DEMONSTRATED A NEED FOR THE PROPOSED RIDER IS INCORRECT. RD AT 30-33.**

#### 1. **OCA’s And OSBA’s Positions Regarding Alleged Prematurity Of The Proposed Rider As Adopted By The RD Are Misguided. RD at 30-32.**

The RD concludes that Aqua has not “demonstrated a current need for the [Proposed] Rider.” RD at 30. This is incorrect and mistakes the purpose of the Proposed Rider. As explained more fully in the Company’s MB, the OCA and OSBA’s contentions – and the RD’s conclusions on this point – have been evaluated before and rejected by the Commission. Indeed, in the Pennsylvania-American Water Company (“PAWC”) proceeding that approved a discounted rate proposal,<sup>2</sup> the OCA argued that PAWC’s proposed negotiated rate rider “[was] not necessary at [that] time, and that [it] lack[ed] specificity as to terms, conditions, and rates.” *PAWC DIS Order*, at \*95. As explained in the Company’s MB, the Commission rejected that position, holding that:

We share some of the OCA's concerns on this issue. Negotiated rates must not become merely a means by which utilities shift the responsibility for lost revenues to core customers who have no competitive alternative. At the same time, however, we realize that the loss of a large industrial customer to an alternative source of supply is harmful to all remaining customers. For this reason we support negotiated incentive rates providing that it can be demonstrated that without such rates the customer can and will switch to a competitive source of supply, and that the rates charged are designed to recover all marginal costs of serving that customer plus some contribution to the utilities' fixed costs. We also insist that the utility have a strong incentive to drive a hard bargain with the customer.

*PAWC DIS Order*, at \*\*95-96.

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<sup>2</sup> See *Pa. PUC, et al., v. Pennsylvania-American Water Co.*, Docket Nos. R-00943231, *et al.*, 1995 Pa. PUC LEXIS 170 (Order Entered July 24, 1995) (“*PAWC DIS Order*”).

Despite this clear guidance on alleged prematurity of negotiated rate riders, the RD does not address the *PAWC DIS Order*'s reasoning at all. Rather, the RD merely concludes that “Aqua has not demonstrated a current need for the [Proposed] Rider.” RD at 30.

Moreover, the RD does not adequately consider Aqua's un rebutted assertions that re-filing the Proposed Rider in the future would unnecessarily delay conclusions and findings that are appropriately addressed in this proceeding. *See* Aqua St. No. 1R, pp. 9-10; *See also* Aqua MB, p. 15. Indeed, the RD does not dispute – nor address – Aqua's argument that a second proceeding to evaluate the efficacy of the Proposed Rider with an eligible customer seeking negotiated rate service may not be decided expeditiously enough for Aqua to retain the eligible customer with viable service alternatives. *See* Aqua RB, pp. 4-5. Aqua filed Supplement No. 3 on December 7, 2022. As of the date of these Exceptions, Supplement No. 3 has been pending before the Commission for more than six months, and it will likely be two more months before a Final Order is issued. *See* Aqua RB, p. 5. An otherwise eligible and interested customer under the Proposed Rider in the future may not want to forego cheaper alternative service for the entirety of a second proceeding evaluating the Proposed Rider. *See* Aqua RB, p. 5. The RD fails to address this. Instead, the RD focuses on Aqua not *currently* having any interested and eligible customers that could take service under the Proposed Rider. RD at 30-31. Again, this should not be the operative focus; the Proposed Rider is presently needed to address needs that may arise rapidly and intermittently in the future. Those needs, while not immediate now, are identifiable, quantifiable, and will be immediate in the future. *See* MB, pp. 12-14; *See also* OCA Exhibit No. JDM-1, pp. 5, 8. To forego a mechanism that would address those needs proactively while not affecting existing customers' rates right now is a misapplication of “need” and, under the RD's understanding of

“need,” may forego a negotiated rate rider ever being approved by the Commission in the future outside the context of a base rate proceeding.

For these reasons, and those explained in Aqua’s briefs, the Commission should conclude that the Proposed Rider is needed and approve it in this proceeding.

**2. The RD Does Not Adequately Consider The Wastewater Service Alternatives Potentially Available To Aqua’s Current Or Future Customers.**

The RD erroneously concludes that “Aqua has also not demonstrated a need for the [Proposed Rider] because there is not record evidence that, in the wastewater context, there exists a viable competitive alternative to service from the company.” RD at 31. This conclusion disregards the obvious fact that there are wastewater treatment facilities in Pennsylvania that are not owned by Aqua, or that large industrial customers may have the wherewithal to construct treatment facilities for their own use. Moreover, the RD fails to consider what may be the principal alternative to Aqua’s wastewater service: moving out of Aqua’s service territory altogether. Aqua MB, p. 8; Aqua St. No. 1, pp. 9-10. The Proposed Rider seeks to prevent that from occurring by retaining those customers – or incenting new customers to begin service – and is modeled after similar riders across various utility sectors in Pennsylvania. *See* Aqua MB, p. 8; *See also* Aqua St. No. 1, pp. 9-10.<sup>3</sup>

Rather than grapple with the alternatives including physical relocation, as demonstrated by Aqua’s record evidence, the RD merely adopts the OCA’s argument that “wastewater is different from other types of public utilities...” This conclusion ignores the service alternatives that Aqua put forth into the record. *See* Aqua MB at 8. It further ignores the most basic service alternative for wastewater customers: relocating outside of the Company’s service territory. RD at 31; Aqua

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<sup>3</sup> Aqua is not suggesting that competitive alternatives are, or will be, a common occurrence. This is not the experience with Aqua Pennsylvania, Inc.’s negotiated rate rider, or with any other utilities’ negotiated rate service.

MB at 8. Aqua presented credible and un rebutted evidence that the costs associated with eligible customers opting to forego Aqua's service could – and likely would – be substantial. Aqua MB, p. 14; OCA Exhibit No. JDM-1, pp. 5, 8. It stands to reason that customers otherwise eligible for the Proposed Rider would seek to: (1) save some costs by taking service under the Proposed Rider if it is approved, or (2) opt for alternative service, including physical relocation, if the Proposed Rider is not approved. Aqua MB, pp. 8, 12-14; Aqua RB at 11. The RD does not acknowledge this fact and the Commission should find that potential alternatives to Aqua's wastewater service exist, now or in the future, sufficient to justify the Proposed Rider's approval in this proceeding.

### **3. The RD Incorrectly Finds That Large Industrial Customers' Interests Can Be Adequately Represented In Base Rate Proceedings.**

The RD incorrectly concludes that presentation of the Proposed Rider should await a future rate case involving a customer(s) seeking a discounted rate. RD at 32. This is the position promoted by the OCA. It was fully rebutted by Aqua in testimony and briefs and will not be fully restated here. That said, the RD's position – as promoted by the OCA – fails to account for discounted wastewater service requests that may occur between rate cases. Aqua MB, p. 17.

Indeed, and as explained by Aqua witness William C. Packer:

While it is true that large industrial customers – whether existing or future – can participate in base rate proceedings before the Commission and advocate for favorable rates, this process is dependent on a variety of factors. First, under the Company's current tariff, large industrial customers do not have a mechanism to receive favorable rates. Thus, those customers are relegated to advocating for lower tariffed rates and favorable rate design during intermittent base rate proceedings. If an alternative to Aqua's wastewater service were to arise between Aqua's base rate cases, the customer could opt to receive that alternative service, causing Aqua to lose that customer's rate revenue altogether. Second, relying only on base rate proceedings to provide rate flexibility is misguided and inconsistent with other utility sectors' practice. As I noted, base rate proceedings are intermittent, often occurring only once every several years. The Proposed Rider circumvents the rigidity of occasional base rate proceedings, thus providing Aqua increased

flexibility to attempt to meet the needs of potentially eligible large industrial customers, now or in the future, without those customers opting out of receiving Aqua's wastewater service altogether. Finally, a base rate process normally develops rates for groups of customers with similar characteristics. It also strongly relies on cost of service to develop rates for each class. This is not well suited to a customer who threatens to leave the utility entirely due to other alternatives not available to every member of the class that are lower than the average cost to serve the entire class. Furthermore, the Rider provides the framework and venue for expediency of executing agreements of this nature that is simply not afforded in a full base rate proceeding. Economic circumstances of industrial users and other customers can change quickly that necessitate a process to allow the Company to actively negotiate in an efficient manner to preserve said customer, ultimately to the benefit of Aqua's entire customer base. The reality is the fixed costs of the utility are a relative constant, in that the loss of a customer of this nature will not result in operating or capital cost reductions that accompany the loss of revenue. In short, the remaining customers will ultimately pay higher costs.

Aqua MB, pp. 17-18; Aqua St. No. 1R, pp. 6-7.

Further, the Proposed Rider contains strict eligibility criteria that would restrict access to any discount, large or small, for interested and eligible customers.<sup>4</sup> Correspondingly, Aqua would bear any revenue shortfall resulting from any negotiated rate until it can be recognized in a future and indeterminate base rate proceeding. Aqua MB, pp. 21-22; Aqua RB, p. 7; Aqua St. No. 1R, p. 8. Further, in a future and indeterminate base rate proceeding, any negotiated rate contract entered into between Aqua and an eligible customer will be subject to extensive review by the OCA, OSBA, the Commission, and any other party to the base rate proceeding. Aqua MB, pp. 21-22; Aqua RB 7; Aqua St. No. 1R, p. 8. In this regard, the RD incorrectly confuses the review of actual negotiated rates, which will occur in base rate proceedings, with approval of the Proposed Rider, which necessarily does not include review of actual negotiated rates.

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<sup>4</sup> See Aqua MB, pp. 8-9.

Thus, not only is a base rate proceeding the inappropriate vehicle for customer with lower cost competitive alternatives to argue for discounted rates, but Aqua is strongly incented to enter into favorable negotiated rate contracts with eligible customers under the Proposed Rider. Further, as noted in **Section II(A)(2)** of these Exceptions, there is no indication that eligible customers would be willing to forego their cheaper alternative service until an indeterminate base rate proceeding or a re-filing of the Proposed Rider. As such, the RD errs in finding that eligible customers' negotiated rate interests are appropriately and adequately represented in intermittent base rate proceedings.

**B. EXCEPTION NO. 2 – THE RD ERRS IN FINDING APPROVAL OF THE PROPOSED RIDER WOULD PUT AQUA’S CUSTOMERS AT RISK. RD AT 32-33.**

The RD incorrectly concludes that approval of the Proposed Rider “may put other Aqua customers at risk to pay for the discount in their future rates.” RD at 32. While this may be technically true insofar as future discounts to rates under the Proposed Rider would be spread amongst Aqua’s other customers eventually, it confuses the Proposed Rider’s purpose, ignores on-point Commission precedent on the issue, and sidesteps the fact that “the rate effects [of a discount under the Proposed Rider] would be less than if a large industrial customer were to stop receiving service from the Company entirely.” Aqua MB, p. 21; Aqua St. No. 1, p. 6.

Further, this conclusion does not acknowledge that, absent participation in negotiated rate service under the Proposed Rider, no customers’ existing rates would be affected at all. Similarly, when participation in negotiated rate service under the Proposed Rider occurs, existing customers’ rates would not be affected until the Company’s then-next base rate case. Aqua MB, pp. 21-23.

As explained fully in the Company’s MB and RB, the Proposed Rider seeks to remediate the negative rate effects of a large industrial customer opting for alternative wastewater service or

leaving the Company's service territory altogether. *See* Aqua MB, pp. 21-22; Aqua RB, p. 11. The argument that proactively getting ahead of these negative rate effects is unreasonable and would harm Aqua's existing customers is misplaced, entirely speculative, and premature. Aqua RB, p. 5. Indeed, "[i]f a large wastewater customer were to opt-out of receiving service from Aqua, the Company would lose out on revenue from that customer. As a result, that loss of revenue would be spread around the Company's service territory to other wastewater customers to recoup the loss." Aqua MB, p. 22; Aqua St. No. 1, p. 6.

The RD ignores this reasoning, as well as the apparent reasoning of the Commission in approving similar riders for other Pennsylvania utilities.<sup>5</sup> Moreover, under the reasoning of the RD, the effects of a large industrial customer opting for alternative service or leaving Aqua's service territory altogether is more desirable, from an overall rate perspective, than that same customer receiving a slightly discounted rate to remain or become an Aqua customer. *See* RD at 32-33. This logic is flawed; Aqua has made clear that the rate effects to Aqua's customer base should an eligible customer opt for service under the Proposed Rider would "be less than if a large industrial customer were to stop receiving service from the Company entirely." Aqua MB, p. 22; Aqua St. No. 1, p. 6. Further, as noted previously and more fully in the Company's briefs, Aqua is incented to enter into favorable contracts under the Proposed Rider should it be approved. *See Section (II)(A)(2), supra.* The RD's conclusion on this point ignores this clear record evidence.

Additionally, negotiated rate contracts entered into under the Proposed Rider, should it be approved, are entirely voluntary. Aqua MB, pp. 20-21. Thus, absent an interested and eligible

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<sup>5</sup> *See e.g.*, Aqua Pennsylvania, Inc., Tariff Water-PA P.U.C. No. 3, Original Page 19; Peoples Natural Gas Company LLC, Supplement No. 2 to Gas – PA P.U.C. No. 47, First Revised Pages 47-48; UGI Utilities, Inc. – Gas Division- UGI Gas – Pa. P.U.C. No. 7, Original Page No. 27, Rule 2.6; Columbia Gas of Pennsylvania, Inc. – Supplement No. 200 to Tariff Gas – PA P.U.C. No. 9, Fifth Revised Page No. 149; Duquesne Light Company, Supplement No. 36 to Electric – PA P.U.C. No. 25, Second Revised Page No. 128.

customer taking service under the Proposed Rider, Aqua’s existing customers’ rates would not be affected at all. *See* Aqua MB, p. 21; Aqua St. No. 1, pp. 6, 8. The RD pays no attention to the two possible outcomes that would result from approval of the Proposed Rider: (1) Aqua’s customers are not affected because no eligible customer opts to take service under the Proposed Rider; or (2) the negative rate effects of a large eligible customer opting for alternative service or leaving Aqua’s service territory are remediated – likely to a very large extent – through that same customer opting to remain or become an Aqua customer receiving slightly discounted rates. *See* Aqua MB, p. 13. Either way, approval of the Proposed Rider does not present risk to Aqua’s customers because mere approval of the Proposed Rider will not affect their rates at all, while potential service under the Proposed Rider will *lessen* harmful rate effects. *See* Aqua MB, pp. 8-12.

**C. EXCEPTION NO. 3 – THE RD’S REJECTION OR ALTERATION OF THE PROPOSED RIDER IS INCONSISTENT WITH COMMISSION PRECEDENT REGARDING APPROVAL OF COMPARABLE NEGOTIATED RATE RIDERS. RD AT 33-34.**

**1. Rejection Of The Proposed Rider Is Inconsistent With Similar Riders Approved For Other Utilities In Pennsylvania.**

In rejecting the Proposed Rider, the RD fails to reconcile the Commission’s approval of several similar riders in Pennsylvania in other utility sectors, including water, natural gas, and electricity. Aqua MB, p. 20; Aqua St. No. 1, pp. 9-10; *See also* n. 5, *supra*. Beyond adopting the OCA’s statement that “wastewater is different from other types of utility service,” the RD does not offer any cogent reason why the Commission should treat negotiated rates in the wastewater context differently than it does in other utility sectors. RD at 31. This conclusion appears to be based on the OCA’s contention that wastewater service is different from other utility service, “in the context of probable and feasible alternatives.” RD at 31. However, as addressed in more detail in **Section II(A)(2)** of these Exceptions, record evidence of alternatives exists for Aqua’s

customers, including the ever-present option to leave Aqua's service territory altogether. Aqua MB, p. 21; Aqua RB, p. 11.

Additionally, and importantly, the RD does not address the model that Aqua used when developing the Proposed Rider: Aqua PA's Rider DIS – Demand Based Industrial Service. *See, e.g.,* Aqua MB, pp. 18-19; Aqua RB, p. 10; Aqua St. No. 1, p. 9; WCP-IR Exhibit A; Aqua Pennsylvania, Inc. ("Aqua PA") Tariff Water-PA P.U.C. No. 3, Original Page 19. Indeed, 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.

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

The RD unjustifiably departs from the Commission's approval of various other negotiated rate riders, including that of Aqua's affiliate under which the Proposed Rider was modeled after. As such, the RD's departure from clear Commission precedent should be rejected and the Proposed Rider should be approved.

## **2. Adoption Of The OCA's Alternative Tariff Language Is Without Compare For Similar Riders In Pennsylvania.**

As an alternative in the event the Commission approves the Proposed Rider, the RD proposes that the Commission adopt certain changes to the tariff language. RD at 34. However,

the RD is unclear whether this alternative language is an outright adoption of the OCA's proposed changes to Supplement No. 3, which read in whole:

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 **will at minimum include a feasibility study, cost-analysis or bid(s) for alternative service and 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 officer.

As an alternative to outright rejection, the RD explained that "approval [of the Proposed Rider] be conditioned on the adoption of tariff language that requires documentation that a feasibility study be performed by Aqua or the potentially eligible customer." RD at 34. Aqua does not object to the Company being required to undertake a feasibility study for interested and potentially eligible customers seeking negotiated rate service under the Proposed Rider. Indeed, in the interests of concession, Aqua committed to performing its own feasibility study for each future potentially-eligible customer to determine whether the discounted rate is reasonable and in the Company's and its ratepayers' best interests. Aqua MB, p. 20. However, OCA's language does not allow Aqua to prepare a feasibility study to support a rate discount.

That said, Aqua has also delineated cogent reasons for not requiring a feasibility study to be performed by the customer. *See* Aqua MB, pp. 19-20. The OCA's proposed language is without compare in other Pennsylvania utilities' negotiated rate riders. Aqua MB, p. 20. Furthermore, there is no guarantee that a prospective customer seeking service under a negotiated rate would conduct and/or provide to Aqua a feasibility study, cost-analysis, or bid(s) for alternative service. Aqua MB, p. 20. A customer with a viable alternative may be unwilling to disclose such confidential information as it seeks to negotiate with both Aqua and the competitive alternative source. Aqua MB, p. 20.

With these considerations in mind, it is likely that the OCA's promoted tariff change would render the Proposed Rider inoperative. Aqua RB, p. 12. Again, these offers of proof of alternatives from the customer would likely contain competitively sensitive information that customers – and potentially other wastewater service vendors – would not want to provide in the negotiation process. Aqua RB, p. 13. The Commission has previously explained that “[it] insist[s] that the utility have a strong incentive to drive a hard bargain with the customer.” *PAWC DIS Order*, \*96. The same is true for the customer seeking to receive negotiated rate service under the Proposed Rider, which makes it unlikely that the interested customer would cede bargaining ground when they already have a viable alternative to Aqua's service. Aqua RB, p. 13. If a customer that is otherwise intent on receiving service under the Proposed Rider is dissuaded by the prospect of sharing competitively sensitive information during the bargaining process, Aqua and its customers lose.

Further, the OCA's recommended language is inconsistent with other Pennsylvania utilities' negotiated rate riders. *See* n. 4, *supra*. No other Pennsylvania utility requires a customer seeking negotiated rate service to undertake and provide a feasibility study. This is for good reason, as explained above. The RD does not offer any reasoning as to why Aqua's Proposed Rider should be treated any different than other utilities have been and continue to be in this context. RD at 34.

As such, to the extent that the RD recommends that the Commission approve the Proposed Rider with the OCA's recommended tariff language modifications, including the provision of a feasibility study conducted by the interested customer, Aqua submits that such change is inappropriate for the reasons explained above and in the Company's briefs. However, to the extent

that the RD recommends conditional approval of the Proposed Rider on Aqua's provision of a feasibility study, Aqua is agreeable to such a recommendation. Aqua MB, p. 20; Aqua RB, p. 13.

### **III. CONCLUSION**

WHEREFORE, and for all of the foregoing reasons, Aqua Pennsylvania Wastewater, Inc. respectfully requests that the Pennsylvania Public Utility Commission (1) grant these exceptions, (2) reverse the Recommended Decision of Administrative Law Judge Gail M. Chiodo, and (3) approve Aqua Pennsylvania Wastewater, Inc.'s Supplement No. 3 to Tariff Sewer-PA P.U.C. No. 3.

Respectfully submitted,



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