



COMMONWEALTH OF PENNSYLVANIA

June 23, 2023

E-FILED

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

**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 Secretary Chiavetta:

Enclosed please find the Reply Exceptions on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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: Brian Kalcic
Commission’s Office of Special Assistants
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY EXCEPTIONS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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

**For:
NazAarah Sabree
The Small Business Advocate**

**Commonwealth of Pennsylvania
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101**

Date: June 23, 2023

I. Introduction

On December 7, 2022, Aqua Pennsylvania Wastewater, Inc. (“Aqua PA” or the “Company”) filed Supplement No. 3 to Tariff Sewer-PA P.U.C. No. 3 with the Pennsylvania Public Utility Commission (“Commission”).

On December 22, 2022, Aqua PA filed Supplement No. 5 to Tariff Sewer-PA P.U.C. No. 3 to voluntarily extend the effective date of Supplement No. 3 to February 10, 2023.

On January 5, 2023, Aqua PA filed a revised Supplement No. 3 to clarify the eligibility for proposed rates. Revised Supplement No. 3 was filed to allow Aqua PA to establish contract rates for qualifying industrial wastewater customers via a rider.

On January 20, 2023, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention.

On February 21, 2023, a telephonic prehearing conference was held before Administrative Law Judge (“ALJ”) Gail M. Chiodo.

On March 2, 2023, ALJ Chiodo issued her Scheduling Order.

On March 20, 2023, the OSBA served the Direct Testimony of Brian Kalcic.

On April 7, 2023, the OSBA served the Surrebuttal Testimony of Mr. Kalcic.

On April 14, 2023, an evidentiary hearing was held before ALJ Chiodo.

On April 28, 2023, the OSBA submitted its Main Brief.

On June 6, 2023, ALJ Chiodo issued her Recommended Decision (“RD”).

On June 16, 2023, Aqua PA filed Exceptions to the RD.

The OSBA submits the following Reply Exceptions in response to the Exceptions filed by Aqua PA.

II. Reply Exceptions

Reply to Aqua PA Exception No. 1 Sub-part 1: The ALJ properly concluded that Aqua PA’s proposed rider was premature. (Aqua PA Exceptions, at 3-5)

In its Exceptions, Aqua PA argues that the Company’s proposed Rider LWCUR – Large Wastewater Customer User (“Rider LWCUR”), which would provide for a discounted rate to a large industrial customer that has a viable alternative to taking wastewater service from Aqua PA, is “needed” and should be approved by the Commission.¹ The Company was so desperate to find *any* support for its ill-conceived Rider LWCUR that it had to cite to a 1995 Commission Order.²

Aqua PA seeks to support its proposed Rider LWCUR by fabricating a worst-case scenario where, absent an immediate Commission approval of the proposed Rider LWCUR, an eligible customer could leave Aqua PA’s system because a future Commission decision (approving a hypothetically refiled tariff rider) “may not be decided expeditiously enough” to satisfy said customer.³ While the OSBA appreciates Aqua PA’s conjecture, this is pure speculation on the Company’s part with no basis in the record. In point of fact, Aqua PA has not demonstrated any immediate need for Rider LWCUR, and, arguably, would not have proceeded to file for approval of Rider LWCUR at this time but for a *Joint Stipulation* with Kimberly-Clark Corporation and Kimberly-Clark Pennsylvania, LLC (collectively, “Kimberly-Clark”) that was filed at Docket No. A-2019-3015173 (the “DELCORA” case).⁴

The OSBA respectfully requests that the Commission reject Rider LWCUR without prejudice.

¹ Aqua PA Exceptions, at 3-5.

² Aqua PA Exceptions, footnote 2.

³ Aqua PA Exceptions, at 4.

⁴ OSBA Statement No.1, at 2-5.

Reply to Aqua PA Exception No. 1 Sub-part 2: The ALJ properly considered the potential current or future viable alternatives to Aqua PA’s wastewater service. (Aqua PA Exceptions, at 5-6)

In the Company’s Exceptions, Aqua PA theorizes that an eligible customer may possess any number of alternatives to taking wastewater service from the Company, namely: conveying wastewater to a non-Aqua PA owned wastewater treatment facility; constructing its own treatment facility; or moving out of the Company’s service territory.⁵ However, Aqua PA fails to acknowledge the obvious fact that all such alternatives come with a real cost and would take time to implement, assuming that a given option was actually economically feasible to pursue.⁶

The OSBA acknowledges that, while the record, as it stands, contains no evidence of any such “eligible customer,” no one knows what the future holds. Therefore, if such an “eligible customer” appears, Aqua PA could file a proposed Rider to address that possible bypass situation at that time.

⁵ Aqua PA Exceptions, at 5.

⁶ OSBA Statement No. 1-S, at 2.

III. Conclusion

For the reasons set forth herein, the OSBA respectfully requests that the Commission deny Aqua PA Exception No. 1 Sub-parts 1 and 2, and thereby reject Rider LWCUR without prejudice.

Respectfully submitted,

/s/ Steven C. Gray

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Dated: June 23, 2023.

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
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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
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DATE: June 23, 2023

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