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Michael W. Hassell

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File #: 196374

June 27, 2023

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 507, 508, 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of the City of Beaver Falls  
Docket No. A-2022-3033138**

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Dear Secretary Chiavetta:

We are counsel for Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”) in connection with its above-referenced Application, filed with the Pennsylvania Public Utility Commission (“Commission”) on February 17, 2023, pursuant to Sections 507, 508, 1102, and 1329 of the Pennsylvania Public Utility Code (the “Code”), 66 Pa.C.S. §§ 507, 508, 1102, 1329, for approval of the acquisition of all of the assets, properties and rights related to the wastewater collection and treatment system owned by the City of Beaver Falls (“Beaver Falls” or “the City”). The Commission’s Bureau of Technical Utility Services (“TUS”) is reviewing the Application and has asked that we address certain requests for additional information, in a second set of requests dated June 13, 2023.

**INFORMATION REQUEST 14:**

Checklist Item No. 12. – Application Completeness Review No. 2 requested that APW amend the Application’s Exhibit G, Page 8, to include a pro forma tariff supplement containing rates for services provided by the City of Beaver Falls (Beaver Falls) at points of service outside of Beaver Falls’ municipal limits. In response APW indicated that, “Beaver Falls does not provide retail service to individual customers outside of the municipal boundaries of Beaver Falls. Beaver Falls provides wholesale/bulk service to the surrounding municipalities. The locations noted above, Flow Meter 6, Wallace Run Pump Station, and Eastvale Pump Station are where wastewater flow is measured from the

Contributing Municipalities, which are charged at the Bulk Rates (\$4.54 per 1,000 gallons) set forth in Application Exhibit G.” Also, Application Completeness Review Item No. 6 requested that APW amend the Application’s Exhibit A to include all the points of service between Beaver Falls and the seven contributing municipalities within the boundaries of the requested service territory. In response APW indicated that “Included with this letter is an updated Application Exhibit A which includes the Flow Meter #6. The updated Exhibit A does not include the Wallace Run Pump Station and associated piping outside the boundaries of the City as those assets are owned by Big Beaver Borough.” Updated Exhibit A included portions of West Mayfield and Eastvale Boroughs in APW’s requested service territory. Considering APW’s position that bulk wastewater service is provided to certain customers at points of service in West Mayfield and Eastvale Boroughs, please amend the Application’s Exhibit G, Page 8 - Description of Territories Served, Rate Zone 14 to include the points of bulk wastewater service interconnection in portions of West Mayfield and Eastvale Boroughs in APW’s Rate Zone 14 service territory description.

**RESPONSE:**

Included with this letter is an amended Application Exhibit G.

**INFORMATION REQUEST 15:**

Checklist Item Nos. 24.d. and 24.e. – Application Completeness Review No. 11 requested that APW explain why the Leased Property is not listed in Section 2.02 of the APA as Excluded Assets or provide written documentation from the JSU, as the affected municipal authority, supporting the inclusion of the Leased Property in the APA’s Section 2.01 list of Acquired Assets. In response, APW indicated that the assets listed in the “lease” are not listed in Section 2.02 as excluded assets because the City of Beaver Falls’s (City’s) position is that the agreement is not valid, binding and enforceable. However, information included in the Application’s exhibits appears contradictory to the City’s position and indicates that the APA does not adequately describe the assets to be acquired or excluded. For example, the Application’s Exhibit F5 included a copy of Ordinance No. 2036 (Ordinance), enacted April 8, 2014, entitled “An Ordinance of the City of Beaver Falls authorizing the execution and delivery of a Capital Lease Agreement with the Joint Sewer Users of the City of Beaver Falls” that stated in Section 2 of the Ordinance “[C]ity hereby voluntarily relinquishes and expressly waives any right or power to acquire any project or facility of the JSU or to terminate the existence of the JSU including but not limited to any statutory right or power under the Act, including but not limited to 53 Pa. C.S.A. § 5622.” Additionally, the Application’s Exhibit F5 included a copy of an agreement entitled “Capital Lease Agreement” (Lease Agreement), dated April 8, 2014, which was fully executed by the City and the manager of the JSU and, further, was attested to by the City Clerk. Further, the Application’s Exhibit J2 included a copy of a financial statement for the city entitled “City of Beaver Falls Financial Statements with Report of Certified Public Accountant for the Year ended December 31, 2021” (2021 Financial Statement), prepared by Mark C. Turnley, C.P.A. The 2021 Financial Statement’s Exhibits B, F, G and H listed separately a fund identified as the Joint Sewer Users Fund. Specifically, the Financial Statement’s Exhibit G listed a Line Rental Expense of \$100,000 under JSU Fund Operating Expenses,

which appears to fulfill the obligations of the JSU stated in the Lease Agreement's Section 3, Rent. Finally, the Application's Exhibit B, Asset Purchase Agreement (APA), Section 4.15.(c) indicated that all of the Assigned Contracts set forth on the APA's Schedule 4.15, which included the Lease Agreement, are in full force and effect. Considering these exhibits, please provide responses to the following:

- a. Provide written documentation (i.e., agreement amendment(s), ordinance(s) and/or resolution(s)) from the JSU, as the affected municipal authority, and the City that the Lease Agreement has been terminated by mutual agreement; or

**RESPONSE:**

Please see the response to c., below.

- b. Provide an amended APA Schedule 2.02(h) that includes the Lease Property identified in APW's response to Application Completeness Review Item No. 4 as Excluded Assets; or

**RESPONSE:**

Please see the response to c., below.

- c. Provide a written statement that indicates APW agrees with the following representation which was attributed to the City and not APW in the response to Information Request 11.a:

"The assets listed in the "lease" are not listed in Section 2.02 as excluded assets because the City's position is that the agreement is not valid, binding and enforceable. That is because the municipal authority was never formed and does not legally exist as an entity. There is no record at the office of the Secretary of the Commonwealth of any municipal authority having been created using the JSU name or any similar name that might be connected to the Beaver Falls system. In addition, the City's position is that the document was never signed by anyone on behalf of the so-called JSU authorized to do so. Consequently, it is the City's position that the consent provision is unenforceable and there is no party from whom to seek consent."

**RESPONSE:**

The Company agrees with the representation of the City, as no information has been shown that the JSU exists as a Municipal Authority incorporated under the Municipal Authorities Act of 1945.

The Verification of William C. Packer verifying the foregoing is included with this letter.

Rosemary Chiavetta, Secretary, Secretary  
June 27, 2023  
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Aqua believes that, with this letter and accompanying information, it has complied with TUS' requests for supplemental information and asks that the Commission acknowledge that the Application has been perfected.

Please direct any questions regarding this submission to the undersigned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael W. Hassell".

Michael W. Hassell

MWH/kl  
Attachments

cc: 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).

### VIA E-MAIL

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Pennsylvania Public Utility Commission  
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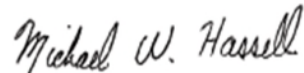
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*Counsel for Municipal Protestants  
Patterson Heights Borough, Patterson  
Township, West Mayfield Borough, White  
Township*

Date: June 27, 2023



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Michael W. Hassell

# **REQUEST No. 14**

## **Amended Application Exhibit G**

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

RATES, RULES, AND REGULATIONS

GOVERNING THE COLLECTIONS OF

WASTEWATER

IN PORTIONS OF

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

IN THE COMMONWEALTH OF PENNSYLVANIA

ISSUED: **XX/XX/XXXX**

EFFECTIVE: **XX/XX/XXXX**

By:

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

## **NOTICE**

**THIS TARIFF ESTABLISHES WASTEWATER RATES FOR CUSTOMERS OF THE  
CITY OF BEAVER FALLS SITUATED WITHIN BEAVER COUNTY,  
PENNSYLVANIA.**

LIST OF CHANGES MADE BY THIS TARIFF

Changes: This tariff makes changes to the reflect the acquisition of the wastewater assets of the City of Beaver Falls located in Beaver County, Pennsylvania. Closing on the acquisition took place on XX/XX/XXXX, with the effective date of ownership occurring at 12:01AM on XX/XX/XXXX. (See page XXX)

This tariff is made pursuant to the Commission's Order adopted at Docket No. A-2022-3033138, which authorizes the issuance of the Certificate of Public Convenience.

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	Page Number	
Rates, Rules, and Regulations	1	XXXX Revised (C)
List of Changes Made by This Tariff	2	XXXX Revised (C)
Table of Contents	3	XXXX Revised (C)
Table of Contents (Cont'd)	4	Fourth Revised
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Description of Territory Served	6	Original Page
Description of Territory Served (Cont'd)	7	Original Page
Description of Territory Served (Cont'd)	8	XXXX Revised (C)
Held For Future Use	9	Original Page

**SCHEDULE OF RATES:**

Rate Zone 1	10.1.1	Original Page
Rate Zone 1 (cont'd)	10.1.2	Original Page
Rate Zone 2	10.2.1	Original Page
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Rate Zone 3	10.3.1	Original Page
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Rate Zone 5	10.5.1	Original Page
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Rate Zone 6	10.6	Original Page
Rate Zone 7 - Limerick Division	10.7	Original Page
Rate Zone 8 - East Bradford Township Division	10.8	Original Page
Rate Zone 9 - Cheltenham Township Division	10.9.1	Original Page
Rate Zone 9 - Cheltenham Township Division (cont'd)	10.9.2	Original Page
Rate Zone 10 - East Norriton Township Division	10.10	Original Page
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Rate Zone 12 - Lower Makefield Township Division (cont'd)	10.12.2	Original Page
Rate Zone 12 - Lower Makefield Township Division (cont'd)	10.12.3	Original Page
Rate Zone 13 - East Whiteland Township Division	10.13.1	Original Page
Rate Zone 13 - East Whiteland Township Division (cont'd)	10.13.2	Original Page
Rate Zone 13 - East Whiteland Township Division (cont'd)	10.13.3	Original Page
Rate Zone 14 - Beaver Falls Division	10.14	Original Page (C)
Rate Zone 14 - Beaver Falls Division (cont'd)	10.14.1	Original Page (C)

DESCRIPTION OF TERRITORIES SERVED

	<u>Township</u>	<u>County</u>
RATE ZONE 12		
Lower Makefield Township Division	Lower Makefield	Bucks
RATE ZONE 13		
East Whiteland Township Division	East Whiteland	Chester
Sewer District A: that part of East Whiteland Township not included within Districts B, C, D, and E		
Sewer District B: properties served by the western extension of the Route 30 sewer main		
Sewer District C: residential dwellings located in the Lockwood Chase subdivision		
Sewer District D: all properties that flow into and whose effluent is treated at the sanitary sewage facility that serves the dwellings in the Malvern Hunt development		
Sewer District E: all commercial and residential properties located in the Atwater development south of the quarry		

A depiction of the Sewer Districts as noted above can be found in Revised Exhibit H to the Application filed at Docket No. A-2021-3026132

<b>RATE ZONE 14</b>		
Beaver Falls Division	City of Beaver Falls	Beaver
Beaver Falls Division	Eastvale Borough	Beaver
Beaver Falls Division	West Mayfield Township	Beaver

\*All Divisions and Subdivisions above are billed on a per EDU basis, with the exception of the Media Division, Plumsock Division, Treasure Lake Division, Village of Valley Forge Division and Beaver Falls Division

SCHEDULE OF RATES

RATE ZONE 14 – METERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 14 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

QUARTERLY SERVICE & CONSUMPTION CHARGES (\$)

		Gallons per Quarter	Rate Zone 14 Quarterly
<u>RESIDENTIAL</u>	Base	0 to 3,000 Gallons	\$42.37
	Block 1	Over 3,000 Gallons	\$8.46 per 1,000 gallons
<u>COMMERCIAL</u>	Base	0 to 3,000 Gallons	\$42.37
	Block 1	Over 3,000 Gallons	\$8.46 per 1,000 gallons
<u>Bulk Rates</u> <sup>(1)</sup>			\$4.54 per 1,000 gallons
<u>Bulk Rate Other (Dalton)</u>			\$4.54 per 1,000 gallons

MONTHLY SERVICE & CONSUMPTION CHARGES (\$)

<u>COMMERCIAL &amp; INDUSTRIAL</u>	Base	0 to 1,000 Gallons	\$14.12
	Block 1	Over 1,000 Gallons	\$8.46 per 1,000 gallons

The DSIC surcharge shall not be applied to bills of wastewater customers in the Beaver Falls division; this will remain effective until an amended Long-Term Infrastructure Improvement Plan (LTIIP) is filed and approved which includes Beaver Falls. Following the approval of an amended LTIIP, the DSIC surcharge shall be applicable to wastewater customers in the Beaver Falls division.

<sup>(1)</sup> Bulk Rate service is available to municipalities and municipal authorities that provide their own wastewater collection system but obtain conveyance and treatment service from the Beaver Falls division. Municipalities and municipal authorities must enter into a service agreement with Aqua to establish terms and conditions of service, which may include, among other things, rate provisions that authorize annual rate adjustments.

## RATE ZONE 14 – CONTINUED

Industrial Pretreatment Program-Beaver Falls (IPP-Beaver Falls)A. Introduction

1. This Section applies to Industrial and Commercial customers served under Rate Zone 14 of this Tariff. All customers subject to this section (“Users”) shall comply with the Wastewater Control Regulations and Industrial and Commercial Service Limitations as set forth in Section H and M, respectively, of the Company’s Tariff, as amended from time to time, except as such rules and regulations are modified by this Section.
2. The Users shall be responsible for the charges and fees set forth below for the administration of the IPP-Beaver Falls. IPP fees are in addition to any other charges set forth in this Tariff.
3. Specific limitations and prohibitions applicable to Industrial and Commercial Users under this Section are set forth on Aqua’s website regarding IPP-Beaver Falls.
4. Users shall be required to enter into a separate pretreatment agreement to govern specific limitations; prohibitions; conditions; duties and responsibilities; and sampling, monitoring and reporting requirements.

B. Charges

1. Industrial Wastewater Discharge Contract Application/Renewal Fee: \$300.00
2. Specific Fees to be applied to quarterly flow, if the quarterly average results from samples collected from the discharge exceeds 300 ppm for BOD<sub>5</sub> or 275 ppm for TSS:
  - a. BOD<sub>5</sub> Rate per 1,000 gallons =  $0.00834 \times \$0.25 \times (\text{BOD}_5 \text{ Sample} - 300)$
  - b. TSS Rate per 1,000 gallons =  $0.00834 \times \$0.15 \times (\text{TSS Sample} - 275)$
3. Industrial Surcharge Rate: \$0.01 per gallon.

## VERIFICATION

I, William C. Packer, Vice President, Regulatory Accounting & Regional Controller of Aqua Pennsylvania, Inc., hereby state that the facts set forth in the letter of Counsel of Aqua Pennsylvania Wastewater, Inc., dated June 27, 2023, addressing information requests of the Bureau of Technical Utility Services in the matter at PaPUC Docket No. A-2022-3033138, 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).

*William C. Packer*

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William C. Packer  
Vice President, Regulatory  
Accounting & Regional Controller  
Aqua Pennsylvania, Inc.

Dated: June 27, 2023