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Garrett P. Lent  
Principal

glent@postschell.com  
717-612-6032 Direct  
717-731-1985 Direct Fax  
File #: 203069

November 15, 2023

***VIA ELECTRONIC FILING***

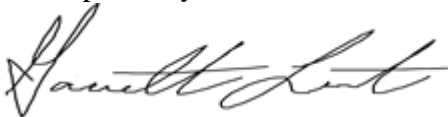
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: William Ferguson v. Aqua Pennsylvania Wastewater, Inc.  
Docket No. C-2023-3043108, C-2023-3043109**

Dear Secretary Chiavetta:

Attached for re-filing please find the Unopposed Motion for Continuance and Referral to Mediation on behalf of Aqua Pennsylvania Wastewater, Inc., in the above-referenced proceeding. This document was previously filed on November 14, 2023, with an incorrect docket number on the Notice to Plead associated with the Motion. Copies are being provided as indicated on the Certificate of Service.

Respectfully submitted,



Garrett P. Lent  
Principal

GPL/kl  
Attachment

cc: The Honorable Eranda Vero (*via email; w/attachment*)  
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 EMAIL AND FIRST-CLASS MAIL**

William Ferguson  
313 Hyde Park Road  
Landenberg, PA 19350  
zzzferg@gmail.com

Date: November 15, 2023

  
Garrett P. Lent

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Ferguson,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket Nos. C-2023-3043108
	:	C-2023-3043109
Aqua Pennsylvania Wastewater, Inc.,	:	
	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.103(c), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.



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Michael W. Hassell, Esq. (ID # 34851)  
Garrett P. Lent, Esq. (ID # 321566)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101  
Phone: 717-731-1970  
E-mail: mhassell@postschell.com  
E-mail: glent@postschell.com

Date: November 15, 2023

Attorneys for Aqua Pennsylvania Wastewater, Inc.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Ferguson,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket Nos. C-2023-3043108
	:	C-2023-3043109
Aqua Pennsylvania Wastewater, Inc.,	:	
	:	
Respondent.	:	

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**UNOPPOSED MOTION FOR CONTINUANCE AND REFERRAL TO MEDIATION OF  
AQUA PENNSYLVANIA WASTEWATER, INC.**

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**TO ADMINISTRATIVE LAW JUDGE VERO:**

Aqua Pennsylvania Wastewater, Inc. (“Aqua”) hereby files this Unopposed Motion for a Continuance and for Referral to Mediation pursuant to Section 5.103 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.103, and the November 3, 2023 Prehearing Order, and requests that the evidentiary hearing scheduled for December 12, 2023, in the above-captioned consolidated complaint proceedings be continued and the consolidated matter be referred to the Commission’s mediation unit for formal mediation. Aqua has discussed this Motion with the Mr. William Ferguson (“Complainant”), and has been authorized to represent that the Complainant concurs in this Motion and does not intend to file an Answer.

In support of the instant Motion, Aqua avers as follows:

## **I. BACKGROUND**

1. Aqua provides wastewater public utility service to approximately 40,000 wastewater customers in its certificated service territory across the Commonwealth of Pennsylvania.

2. On September 19, 2023, Aqua was served with two complaints filed by William Ferguson (“Complainant”) at Docket Nos. C-2023-3043108 and C-2023-3043109, respectively.

3. On October 10, 2023, Aqua timely filed Answers & New Matters to each Complaint.

4. On October 25, 2023, the Complainant filed Replies to Aqua’s New Matters at both dockets.

5. On October 27, 2023, the Commission issued a Telephonic Hearing Notice at both dockets, scheduling a consolidated telephonic evidentiary hearing for December 12, 2023, at 10:00 a.m.

6. On November 3, 2023, Administrative Law Judge Eranda Vero (the “ALJ”) issued a Prehearing Order at the consolidated complaint dockets.

## **II. REQUEST FOR CONTINUANCE OF SCHEDULED EVIDENTIARY HEARING**

7. Pursuant to the October 27, 2023 Hearing Notice, there is a telephonic hearing scheduled in this matter for December 12, 2023 at 10:00 a.m.

8. Section 1.15(b) of the Commission’s regulations states:

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Commission or the presiding officer. Only for good cause shown will requests for

continuance be considered. The requests for a continuance should be filed at least 5 days prior to the hearing date.

52 Pa. Code § 1.15(b).

9. In addition, the Prehearing Order issued on November 3, 2023, provides that:

You may request a continuance of the hearing if you have a good reason. Continuances will be granted only for good cause. To request a continuance, you must submit a written request to [the ALJ] (a “motion”) at least five (5) days before the hearing. [...] Your motion should include:

- (1) The case name, case number, and hearing date;
- (2) The reason you are requesting a continuance; and
- (3) State whether the other party(s) agrees to the request (or if you do not know).

Prehearing Order, p. 2 (Nov. 3, 2023).

10. Aqua respectfully requests that the December 12, 2023 evidentiary hearing be continued to accommodate settlement discussions between Aqua and the Complainant.

11. It is Commission policy to encourage settlements. *See* 52 Pa. Code § 5.231(a).

12. This is Aqua’s first request for a continuance in this matter.

13. On November 9, 2023, counsel for Aqua contacted the Complainant regarding this request for a continuance. The Complainant is in agreement with the continuance request.

14. For these reasons, Aqua herein requests a continuance of the December 12, 2023 hearing.

### **III. REQUEST FOR REFERRAL TO THE COMMISSION’S MEDIATION UNIT**

15. Aqua incorporates paragraphs 1-14 as though fully set forth herein.

16. Aqua respectfully requests that the above-captioned consolidated complaint proceedings be referred to the Commission’s mediation unit for a formal mediation session.

17. Section 69.392 of the Commission’s regulations states that:

(b) *Requesting mediation.*

(1) Parties may request mediation, prior to the commencement of a proceeding, by sending a letter request to the Mediation Coordinator of OALJ, and a copy of the request to the Secretary of the Commission.

(2) Parties may request mediation in their pleadings.

(3) Parties may request mediation during the course of a proceeding.

(c) *Consent to use mediation process.* The OALJ may notify the parties in a proceeding that mediation may be appropriate and ask whether the parties consent to use the mediation process.

(d) *Party with the burden of proof.*

(1) Except as otherwise directed by the Commission, there can be no mediation unless the party with the burden of proof consents to mediate.

18. Here, Aqua believes mediation is the appropriate vehicle for facilitating settlement discussions between Aqua and the Complainant.

19. Further, continuing the December 12, 2023 evidentiary hearing and referring the consolidated complaint proceeding to the Commission's mediation unit will give the parties additional time to pursue potential settlement of each complaint. *See* 52 Pa. Code § 5.231(a).

20. As the party with the burden of proof in these consolidated complaint proceedings, the Complainant must consent to mediation in order for the proceedings to go to mediation.

21. On November 9, 2023, Aqua contacted the Complainant regarding this proposal. The Complainant agreed that continuing the hearing and requesting that the complaints be referred to mediation was appropriate and is supportive of each request.

22. Should the ALJ grant Aqua's unopposed continuance and referral to mediation request(s), Aqua will endeavor to work with the Complainant to determine mutual availability to

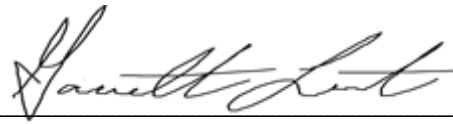
schedule a formal mediation session, which Aqua and the Complainant have agreed would occur over the telephone or via videoconference.

23. Further, should mediation not ultimately result in full and final resolution of the consolidated complaints, Aqua will endeavor to work with the Complainant to determine several mutually agreeable dates to reschedule the evidentiary hearing.

**IV. CONCLUSION**

WHEREFORE, Aqua Pennsylvania Wastewater, Inc. respectfully requests that a continuance of the December 12, 2023 evidentiary hearing be granted and that the consolidated complaints at Docket Nos. C-2023-3043108 and C-2023-3043109 be referred to the Commission's mediation unit for formal mediation.

Respectfully submitted,



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Michael W. Hassell, Esq. (ID # 34851)  
Garrett P. Lent, Esq. (ID # 321566)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101  
Phone: 717-731-1970  
E-mail: mhassell@postschell.com  
E-mail: glent@postschell.com

Date: November 15, 2023

Attorneys for Aqua Pennsylvania Wastewater, Inc.