

COMMONWEALTH OF PENNSYLVANIA



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December 8, 2023

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

Re: Application of Aqua Pennsylvania
Wastewater, Inc. – Greenville Sanitary
Authority
CSI Designation of Aqua Exhibit Z
Docket No. A-2023-3041695

Dear Secretary Chiavetta

I am writing on behalf of the Office of Consumer Advocate regarding Aqua's Application to acquire the Greenville Sanitary Authority's wastewater system. Specifically, the OCA was served with the Application on November 17, 2023. Exhibit Z of Aqua's Application (Aqua St. No. 4, the Direct Testimony of John Childers) was designated by Aqua as confidential security information (CSI).

By way of further information, on November 17, 2023, I contacted Aqua's counsel, Courtney Schultz, to determine if she had any information about the process available for the OCA to access Exhibit Z. Attorney Schultz, who is copied on this letter, directed me to contact the Commission's Secretary's Bureau.

On November 30, 2023, I contacted the Secretary's Bureau and spoke to a representative who directed me to send you the OCA's request in writing. By way of further information, the OCA contacted Aqua Regulatory Counsel Alexander Stahl and counsel for OCA was able to conduct a physical review of Exhibit Z on December 6, 2023.

There is insufficient information in Aqua's Letter to the Commission that accompanied the submission of Exhibit Z to determine the basis for Aqua designating Exhibit Z as CSI. The OCA opposes restricting consumers' access to materials that form the basis of Aqua's Application. The

OCA's opposition is underscored in that Aqua has designated Exhibit Z as CSI without clearly demonstrating a statutorily supported basis.

The OCA has significant concerns about how Exhibit Z's designation as CSI will impact its ability to *inter alia*, conduct discovery on the Exhibit, timely retain appropriate expert witnesses for the case who will then need to be able to review Exhibit Z, conduct cross examination, and provide briefs on the area addressed in Exhibit Z. The OCA's concerns are heightened in that the truncated statutory timeframe available for this case already presents challenges in developing a comprehensive record for the Commission. For these reasons, the OCA requests that Aqua's Application be rejected for filing.

If Aqua's filing is not rejected, then, without waiving its position that the filing should be rejected, the OCA respectfully requests that the Application should not be conditionally accepted until the Public Utility Commission provides a timeline, process, and protocol for review including the subsequent treatment of discovery, responsive testimony, hearing time, and briefing related to Exhibit Z and that process is made public once it is determined. As a threshold level of due process protection, Aqua's Application should not be accepted for filing unless and until the Commission identifies and implements a protocol that will enable the OCA to fully and completely review, evaluate, and investigate Application Exhibit Z, including a process that will allow for discovery about the Exhibit as well as testimony and evidence about the information contained in the exhibit.

Accordingly, please allow this message to serve as the OCA's request to be notified once a timeline, process and protocol is determined by the Public Utility Commission and implemented for the OCA to access and address Exhibit Z. As Aqua's Application appears to represent the first Section 1329 case invoking a CSI designation for any materials, we are committed to working with Aqua and the Commission in finding a path forward that protects CSI but also respects the rights of consumers and all parties' due process rights. Please feel free to reach out to myself or to the Deputy Consumer Advocate Christine M. Hoover (CHoover@paoca.org) with any questions or concerns you may wish to discuss as you consider the OCA's request.

Thank you for your assistance.

Respectfully Submitted,

/s/ Gina L. Miller

Gina L. Miller

Assistant Consumer Advocate

PA Attorney I.D. # 313863

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cc: Parties listed on Certificate of Service

*4873-2568-1556

CERTIFICATE OF SERVICE

Application of Aqua Pennsylvania Wastewater, Inc. :
 (hereinafter referred to as “Aqua” or “Applicant”) :
 pursuant to Sections 1102 and 1329 of the Public :
 Utility Code for: (1) approval of the acquisition :
 by Aqua of the wastewater system assets of the :
 Greenville Sanitary Authority (“GSA”) situated :
 within the Borough of Greenville, Hempfield :
 Township, and West Salem Township, Mercer :
 County, Pennsylvania; (2) approval of the right : Docket No. A-2023-3041695
 of Aqua to begin to offer, render, furnish and :
 supply wastewater service to the public in the :
 Borough of Greenville, Hempfield Township :
 and West Salem Township, Mercer County, :
 Pennsylvania; and (3) an order approving the :
 acquisition that includes the ratemaking rate :
 base of the GSA wastewater system assets :
 pursuant to Section 1329(c)(2) of the Public :
 Utility Code. Request for Approval of Contracts, :
 including Assignments of Contracts, between :
 Aqua and the GSA, Pursuant to Section 507 of :
 the Public Utility Code :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Letter Re: Exhibit Z of Aqua’s Application, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 8th day of December 2023.

SERVICE BY E-MAIL ONLY

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SERVICE BY E-MAIL ONLY (continued)

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Hon. Charles E. Rainey, Jr.
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/s/ Gina L. Miller
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Dated: December 8, 2023
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