

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO  
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE  
555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
(800) 684-6560

 @pa\_oca  
 /pennoca  
FAX (717) 783-7152  
consumer@paoca.org  
www.oca.pa.gov

February 5, 2024

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

Re: Petition of Aqua Pennsylvania, Inc.  
For Approval of its Lead Service Line  
Replacement Program  
Docket No. P-2023-3044459

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman  
Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
HBreitman@paoca.org

Enclosures:

cc: The Honorable. Charece Z. Collins (**email only**)  
Certificate of Service

CERTIFICATE OF SERVICE

Petition of Aqua Pennsylvania, Inc. for :  
Approval of its Lead Service Line : Docket No. P-2023-3044459  
Replacement Program :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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. This document was filed electronically on the Commission's electronic filing system.

Dated this 5<sup>th</sup> day of February 2024.

**SERVICE BY E-MAIL ONLY**

Allison Kaster, Esquire  
Director  
Bureau of Investigation & Enforcement  
400 North Street  
Commonwealth Keystone Building  
Harrisburg, PA 17120  
[akaster@pa.gov](mailto:akaster@pa.gov)  
*Counsel for I&E*

Michael W. Hassell, Esquire  
Garrett P. Lent, Esquire  
Megan E. Rulli, Esquire  
Post & Schell, P.C.  
17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
[mhassell@postschell.com](mailto:mhassell@postschell.com)  
[glent@postschell.com](mailto:glent@postschell.com)  
[mrulli@postschell.com](mailto:mrulli@postschell.com)  
*Counsel for Aqua PA*

Alexander R. Stahl, Esquire  
Aqua Services, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010  
[astahl@aquaamerica.com](mailto:astahl@aquaamerica.com)  
*Counsel for Aqua PA*

John W. Sweet, Esquire  
Ria M. Pereira, Esquire  
Elizabeth R. Marx, Esquire  
Lauren N. Berman, Esquire  
118 Locust Street  
Harrisburg, PA 17101  
[PULP@pautilitylawproject.org](mailto:PULP@pautilitylawproject.org)

Steven C. Gray, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
[sgray@pa.gov](mailto:sgray@pa.gov)  
*Counsel for OSBA*

/s/ Harrison W. Breitman  
Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
[HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
717-783-5048  
Dated: February 5, 2024  
\*4856-1025-6803

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Aqua Pennsylvania, Inc. : Docket No. P-2023-3044459  
For Approval of its Lead :  
Service Line Replacement Program :

---

PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

---

**I. INTRODUCTION**

On October 23, 2023, Aqua Pennsylvania, Inc, (Aqua or Company) filed with the Pennsylvania Public Utility Commission (Commission) a Petition for Approval of its Third Long-Term Infrastructure Improvement Plan (LTIP), which included a Lead Service Line Replacement Program (LSLR Program) as a separate and distinct part of its LTIP under Docket No. P-2023-3043755. The Commission’s Bureau of Technical Utility Services (TUS) expressed a concern that the LSLR Program should be filed at a separate docket. As such, on November 27, 2023, Aqua filed with the Commission in the instant docket a Petition For Approval of its LSLR Program (Petition) and tariff revisions that will allow it to replace lead service lines, and to recover those costs as provided in Section 1311(b)(2) of the Public Utility Code, which was added to the Public Utility Code pursuant to Act 120 of 2018. 66 Pa. C.S. § 1311(b)(2).

On December 15, 2023, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Public Statement. On December 18, 2023, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and

Answer. On January 18, 2024, the Office of Consumer Advocate (OCA) filed a Notice of Intervention and Public Statement.

## **II. ISSUES**

The OCA will address the following issues for the Commission's consideration in reviewing the Petition and reaching a determination of whether the proposed LSLR improvements are prudent and cost-effective and will maintain safe, reliable, and reasonable service as required by the Public Utility Code and the Commission's regulations (*See* 66 Pa.C.S. §§ 1301, 1311(b)(2), 1501; 52 Pa. Code §§ 65.51-65.62): (1) service line inventory; (2) prioritizing lead service line replacements; (3) emergency repairs and replacements; (4) process and procedures to obtain acceptance of a lead service line replacement; (5) publicly accessible website; (6) Aqua's proposed monetary annual cap to limit lead service line replacements; (7) reimbursement to customers; and (8) customer outreach. The OCA reserves the right to address any other issue that is raised in the Petition based on any relevant evidence that is gathered during the discovery process.

## **III. WITNESSES**

At this time, the OCA has not yet determined whether it will present a witness. Once the OCA determines that a witness is necessary for any portion of its case, it will notify all parties of record immediately.

## **IV. DISCOVERY**

In order to effectively investigate and adequately develop a record in this proceeding, the OCA requests a modification to the Commission's procedural rules, 52 Pa. Code §5.321, et seq., on a going-forward basis, as set forth below:

1. Answers to written interrogatories will be served in-hand within ten (10) calendar days of service of the interrogatories;

2. Objections to interrogatories will be communicated orally within three (3) calendar days of service to the propounding party; unresolved objections shall be served on the parties in writing within five (5) calendar days of service of the interrogatories;

5. Any discovery or discovery related pleadings such as objections, motions, or answers to motions served after noon (12 p.m.) on a Friday or on any business day preceding a state holiday shall be deemed to have been served on the following business day for purposes of tracking responsive due dates;

6. Due dates will be “in-hand” with electronic service on the due date satisfying the “in-hand” requirement and where such service is immediately followed by a hard copy sent by first-class mail;

8. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service; and

9. Rulings over discovery motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

10. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

11. On the Record Data requests will be provided within five (5) calendar days.

## **V. SERVICE ON THE OCA**

The OCA will be represented in this proceeding by Harrison W. Breitman, Assistant Consumer Advocate, and Melanie J. El Atieh, Senior Assistant Consumer Advocate. The OCA asks that all documents should be served by email on the OCA as follows:

Harrison W. Breitman  
Assistant Consumer Advocate  
Office of Consumer Advocate  
E-Mail: [HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Melanie J. El Atieh  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
E-Mail: [MElAtieh@paoca.org](mailto:MElAtieh@paoca.org)

In addition to serving the undersigned, the OCA requests that [LMyers@paoca.org](mailto:LMyers@paoca.org) and [RMarshall@paoca.org](mailto:RMarshall@paoca.org) also be copied on any emails that provide service of any documents.

**VI. PROPOSED SCHEDULE**

The OCA will work with the parties to develop a litigation schedule that is acceptable to the Presiding Officer and the parties.

**VII. SETTLEMENT**

The OCA is willing to participate in settlement discussions.

**VIII. LEAD ATTORNEY FOR PREHEARING CONFERENCE**

As directed in the Prehearing Conference Order, Harrison W. Breitman, Assistant Consumer Advocate, will speak as the lead attorney for purposes of the prehearing conference.

Respectfully submitted,

/s/ Harrison W. Breitman

Melanie J. El Atieh  
Senior Assistant Consumer Advocate  
PA Attorney ID # 209323  
melatieh@paoca.org

Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
HBreitman@paoca.org

Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048

DATED: February 5, 2024

Counsel for:  
Patrick M. Cicero  
Consumer Advocate