

April 2, 2024

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.
Motion of Aqua to Compel Discovery Responses**

Dear Secretary Chiavetta:

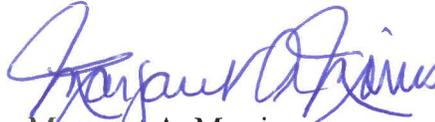
Attached for filing is the Motion of Respondent, Aqua Pennsylvania, Inc. to Compel Discovery responses of Complainant, Lynn Ray in the above referenced matter.

A copy of the attached Motion to Compel has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co
Enclosures

cc: The Hon. Arlene Ashton, PA Public Utility Commission [w/encl.]
Heather S. D. Harrison, Aqua Pennsylvania, Inc. [w/encl.]
Lynn Ray [w/encl.]

**Re: Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.
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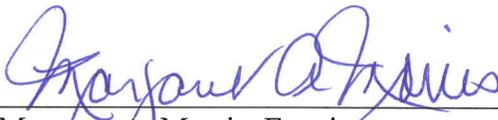
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic Mail

Lynn Ray
lynnwray@gmail.com

Dated: April 2, 2024



Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

LYNN RAY :
v. : Docket No. C-2023-3043218
AQUA PENNSYLVANIA, INC. :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.371, you are hereby notified that if you do not file a written response to the enclosed Motion to Compel of Aqua Pennsylvania, Inc., **within five (5) days** from service of this Notice, the facts set forth by Aqua Pennsylvania, Inc. in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as an Answer to the Motion to Compel, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Aqua Pennsylvania, Inc., Margaret A. Morris, Esq., and the Honorable Arlene Ashton presiding over this proceeding.

File by Mail or e-filing with:

Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
mmorris@regerlaw.com

The Hon. Arlene Ashton
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
aashton@pa.gov

Date: April 2, 2024


Margaret A. Morris, Esquire
Attorney ID No. 75048
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 (tel.)
mmorris@regerlaw.com

Counsel for Aqua Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN RAY	:	
	:	
v.	:	Docket No. C-2023-3043218
	:	
AQUA PENNSYLVANIA, INC.	:	

**MOTION OF AQUA PENNSYLVANIA, INC.
TO COMPEL RESPONSES TO DISCOVERY**

Aqua Pennsylvania, Inc. (Aqua or Company) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion to Compel Lynn Ray (Complainant) to provide full and complete responses to Interrogatories and Request for Documents propounded by Aqua on March 8, 2024. In support thereof, Aqua avers as follows:

PROCEDURAL HISTORY

1. On November 22, 2023, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) regarding service to 408 Cheswold Court, Chesterbrook, Pennsylvania (Service Location) under Account No. 0017793570193620.
2. On October 16, 2023, Aqua filed its Answer which denied the material allegations.
3. By Notice, dated November 20, 2023, the Commission initially scheduled this matter for a telephonic hearing on January 4, 2024, before Administrative Law Judge Arlene Ashton (Judge Ashton).

4. By Notice, dated December 4, 2023, the telephonic hearing was rescheduled for January 17, 2024.

5. By Notice, dated January 16, 2024, the telephonic hearing was cancelled.

6. By Notice, dated January 23, 2024, the telephonic hearing was rescheduled once more for May 16, 2024.

7. On March 8, 2024, pursuant to 52 Pa. Code § 5.341, Aqua propounded Interrogatories and Request for Production of Documents (Discovery Request) *via* electronic mail. A copy of the Discovery Request of Aqua is provided as Attachment 1.

8. In its Discovery Request, Aqua sought information regarding the allegations and statements made in the Formal Complaint.

9. Objections to the Discovery Request were due on or before March 18, 2024, and responses to the Discovery Request were due on or before March 28, 2024.

10. The Complainant did not file any objection to the Discovery Request and has not timely provided any responses or the requested documents. Accordingly, and prior to filing this Motion to Compel, counsel for Aqua contacted the Complainant by letter, dated March 29, 2024, to advise that the responses to the Discovery Request were now overdue. A copy of the letter, dated March 29, 2024, is provided as Attachment 2.

MOTION TO COMPEL

11. The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa. Code § 5.321 (c).

12. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

13. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two-part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that “[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

14. The information/documents sought by Aqua is relatively simple and straightforward. The Discovery Request is directly relevant and material to the allegations raised in the Formal Complaint.

15. Due process requires that Aqua be advised of the allegations so that it can prepare and defend its actions at hearing. *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984).

16. Aqua is entitled to the requested information to enable it to fully prepare for the scheduled telephonic hearing on May 16, 2024. The Complainant has prevented Aqua from preparing and presenting a proper defense.

17. The Commission's Regulations at 52 Pa. Code § 5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations. Section 5.371 provides that:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

18. The Commission's Regulations at 52 Pa. Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's Regulations.

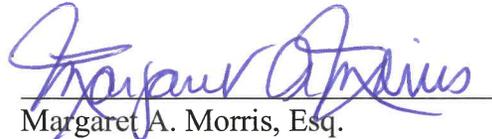
19. Aqua requests that the Complainant be directed to provide full and complete responses to the Discovery Request so that they are received by the undersigned counsel within five (5) days after entry of an order granting this Motion to Compel.

20. In the event the Complainant fails to comply with the issued order, Aqua requests that the Formal Complaint be dismissed in its entirety.

WHEREFORE, Aqua Pennsylvania, Inc. respectfully requests that Judge Ashton issue an Order: (a) compelling the Complainant to fully and completely respond to the Discovery Request; (b) direct that the responses must be received by counsel for Aqua no later than five (5) calendar days after entry of said order; and (c) in the event the Complainant is directed by the Commission but fails to timely and fully respond to Aqua's Discovery Request, dismiss, in its entirety, the Formal Complaint of Lynn Ray.

Respectfully submitted,

Date: April 2, 2024



Margaret A. Morris, Esq.
Attorney ID No. 75048
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 tel.
(215) 495-6600 fax
mmorris@regerlaw.com

Counsel for Aqua Pennsylvania, Inc.

Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.

Attachment 1

Discovery Request
Dated March 8, 2024

March 8, 2024

Via Electronic Mail

Lynn Ray
lynnwray@gmail.com

**Re: Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.
Interrogatories and Request for Documents of Aqua**

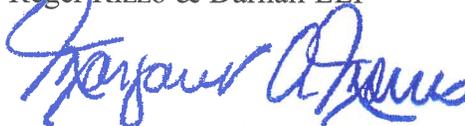
Dear Ms. Ray:

Enclosed are the Interrogatories and Request for Documents of Aqua Pennsylvania, Inc. in the above referenced proceeding. Pursuant to 52 Pa. Code §§ 5.321 and 5.349 et seq. any Objections are due within **ten (10) days** of service of this letter or March 18, 2024; your Answers are due within **twenty (20) days** of service of this letter or March 28, 2024.

Please note that you must send a cover letter and Certificate of Service for your responses to the presiding Administrative Law Judge, the Honorable Arlene Ashton, and Rosemary Chiavetta, Esquire, Secretary of the PA Public Utility Commission (PUC). **You do not file your responses with the PUC.**

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co
Enclosures

cc: The Hon. Arlene Ashton, PA Public Utility Commission [Cert. of Service only]
Rosemary Chiavetta, Esquire, PA Public Utility Commission [Cert. of Service only]
Heather S. D. Harrison, Aqua Pennsylvania, Inc. [w/encl.]



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
3/8/2024	2558201

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2023-3043218

Case Description: Lynn Ray v. Aqua Pennsylvania, Inc.

Transmission Date: 3/8/2024 2:52 PM

Filed On: 3/8/2024 2:52 PM

eFiling Confirmation Number: 2558201

File Name	Document Type	Upload Date
RayCOS (Discovery Requests).pdf	Certificate of Service	3/8/2024 2:51:46 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

**Re: Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.
Interrogatories and Request for Documents of Aqua**

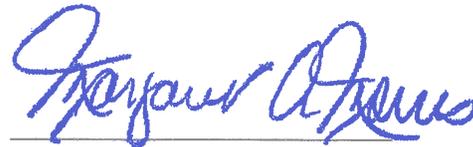
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic Mail

Lynn Ray
lynnwray@gmail.com

Dated: March 8, 2024



Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN RAY

v.

AQUA PENNSYLVANIA, INC.

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:
:
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Docket No. C-2023-3043218

**AQUA PENNSYLVANIA, INC.’S FIRST SET OF INTERROGATORIES AND
REQUEST FOR DOCUMENTS TO COMPLAINANT, LYNN RAY**

Now comes Aqua Pennsylvania, Inc. (Aqua), by and through its undersigned attorney, and hereby requests that Lynn Ray answer fully, in writing and under oath, the following Interrogatories (questions) and Request for Documents pursuant to the 52 Pa. Code §§ 5.321 and 5.349 *et seq.*

Pursuant to 52 Pa. Code § 5.342, you must send your objections to me within ten (10) days (**March 18, 2024**) and answers within twenty (20) days (**March 28, 2024**). Your answers and objections should **not** be filed with the Pennsylvania Public Utility Commission. You should file the cover letter and Certificate of Service with the Commission’s Secretary and forward a copy to the Administrative Law Judge, the Honorable Arlene Ashton. If you have any objection to any of the Interrogatories or the Request for Documents, please identify the Interrogatory or Request stating your objection in full as to why you should not have to answer/produce it. Any objection not raised within the ten (10) day period provided for by 52 Pa. Code § 5.342(c) will be deemed waived and you will not be permitted to raise the objection at a later time.

INSTRUCTIONS¹

Unless stated otherwise, the following instructions are to be considered to be applicable to all interrogatories:

- (a) Whenever a date, amount or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known; and then, the approximate date, amount or other computation or figure should be given or the best estimate thereof; and the answer shall state that the date, amount or other computation or figure is an estimate or approximation.
- (b) No answer is to be left blank. If the answer to an interrogatory or subparagraph of an interrogatory is “none” or “unknown,” such statement must be written in the answer. If the question is inapplicable, “N/A” must be written in the answer. If an answer is omitted because of the claim of privilege, the basis of privilege is to be stated.
- (c) If additional space is required for an answer, attach supplemental answer sheets which clearly identify the interrogatory number being answered.
- (d) These interrogatories are continuing and any information secured subsequent to the filing of your answers which would have been includable in the answers had it been known or available, are to be supplied by supplemental answers.

INTERROGATORIES

1. The matter was continued so that a plumber could do repair work at 408 Cheswold Court, Chesterbrook, Pennsylvania (Service Location). Has the plumbing work been completed?

- (a) If yes, when?

¹Complainant is not represented by counsel. Therefore, these instructions have been simplified. A good faith effort to completely answer the questions is expected.

2. Who performed the plumbing work described in question #1 at the Service Location?
3. Please provide the contact information for the plumber who completed the work in question #1 at the Service Location.
4. Has a plumber inspected the inside water facilities within the last 3 years?
 - (a) If yes, provide the contact information for every plumber.

REQUEST FOR DOCUMENTS

1. Please provide a copy of all documents/invoices from every plumber who has done any work (including inspections for leaks) at the Service Location within the last 3 years.
2. Please provide the contact information for the owner of the Service Location.

Respectfully submitted,



Dated: March 8, 2024

Margaret A. Morris, Esquire
Attorney ID # 75048
Reger Rizzo & Darnall, LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104-2899
(215) 495-6524 (Tel.)
mmorris@regerlaw.com

Counsel for Aqua Pennsylvania, Inc.

Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.

Attachment 2

Delinquent Discovery Response Notice
Dated March 29, 2024

March 29, 2024

Via Electronic Mail

Lynn Ray
lynnwray@gmail.com

**Re: Docket No. C-2023-3043218
Lynn Ray v. Aqua Pennsylvania, Inc.
Delinquent Discovery Response Notice**

Dear Ms. Ray:

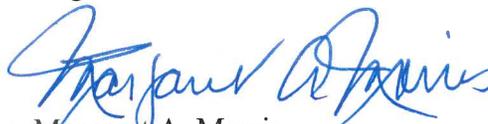
On March 8, 2024, *via* Electronic Mail, you were served with Interrogatories and Request for Documents (Discovery) on behalf of Aqua Pennsylvania, Inc. (Aqua). The due date for your responses to this Discovery was yesterday at 4:30 PM.

Please be advised that if your responses are not received by 4 PM on Monday, April 1, 2024, I will file a Motion to Compel on April 2, 2024, so that Aqua can prepare its defense to the allegations raised in your Formal Complaint.

Your prompt attention to this matter is greatly appreciated. If there are questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co

cc: Heather S. D. Harrison, Aqua Pennsylvania, Inc.