

April 17, 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 for Sanctions**

Dear Secretary Chiavetta:

Attached for filing is the Motion of Aqua Pennsylvania, Inc. for sanctions against the Complainant for her failure to comply with the Order of the Honorable Arlene Ashton, issued April 9, 2024, in the above referenced proceeding.

A copy of the attached Motion for Sanctions 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.
Motion for Sanctions**

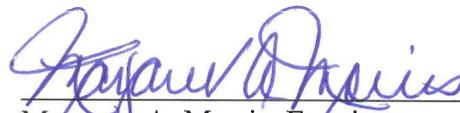
CERTIFICATE OF SERVICE

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 17, 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 for Sanctions 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 for Sanctions, 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 17, 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.
FOR SANCTIONS AGAINST LYNN RAY**

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 for Sanctions against Lynn Ray (Complainant) for her failure to comply with the Order of the Honorable Arlene Ashton (Judge Ashton) issued on April 9, 2024, granting Aqua’s Motion to Compel (Motion). 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. On October 16, 2023, Aqua filed its Answer denying the material allegations therein.
2. 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. In its Discovery Request, Aqua sought information regarding the allegations and statements made in the Formal Complaint.

3. 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.

4. The Complainant did not timely file any objection nor did she provide any response to Aqua's Discovery Requests by the March 28, 2024 deadline.

5. On April 2, 2024, Aqua filed a Motion seeking an order compelling the Complainant to provide full and complete answers to Discovery Requests within five (5) days after entry of said order. The Motion also request that the Formal Complaint be dismissed in its entirety if the Complainant fails to timely provide the information and documentation described in the Discovery Request.

6. By Order, dated April 9, 2024, Judge Ashton granted Aqua's Motion, in part, and directed Complainant to provide the information and documentation described in the Discovery Request by April 16, 2024, at 4:00 p.m.

7. As of the date of this Motion, and despite the directive contained in Judge Ashton's Order, the Complainant has not provided any response to Aqua's Discovery Request.

MOTION FOR SANCTIONS

8. 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.

9. 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.

10. Due process requires that Aqua be advised of the allegations raised in the Formal Complaint so it can adequately prepare for and present a defense at hearing. *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984).

11. Complainant's refusal to respond to Aqua's Discovery Request and her refusal, without explanation, to comply with Judge Ashton's Order represents a clear denial of due process of law.

12. A presiding officer's orders must be complied with, and a lack of compliance presents a sufficient basis for dismissal of the Formal Complaint without a hearing pursuant to 52 Pa. Code § 5.372(a) (3).

13. Commission precedent is well settled and supports dismissal of the Formal Complaint with prejudice for failure to comply with Judge Ashton's Order. *Weisenberger, et al v PECO*, Docket No. C-2010-2182281, (Final Order entered December 22, 2011); *Francisco Valez v. Verizon Select Services, Inc.*, Docket No. C-2008-2060020 (Order entered November 20, 2009) (Complaint dismissed due to Complainant's failure to comply with Order directing the provision of discovery responses).

WHEREFORE, for the reasons set forth above, Aqua Pennsylvania, Inc. respectfully requests that the Commission dismiss, in its entirety, the Formal Complaint of Lynn Ray against Aqua Pennsylvania, Inc.

Respectfully submitted,

Date: April 17, 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.