

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Aqua Pennsylvania, Inc. for Approval : P-2023-3044459
of its Lead Service Line Replacement Program :

PREHEARING ORDER #2

On November 27, 2023, Aqua Pennsylvania, Inc. (Aqua), through its counsel, Michael W. Hassell, Esquire, filed with the Pennsylvania Public Utility Commission (Commission) a Petition for approval of a lead service line replacement program, pursuant to Section 1311(b) of the Pennsylvania Public Utility Code and Sections 65.51 *et seq.* of the Commission's regulations at Title 52 of the Pennsylvania Code. The Petition was docketed at P-2023-3044459.

On December 15, 2023, Steven C. Gray, Esquire filed a Notice of Appearance, Notice of Intervention and Public Statement on behalf of the Office of Small Business Advocate (OSBA).

On December 18, 2023, John Sweet, Esquire filed a Petition to Intervene and Answer on behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA).

On January 18, 2024, Harrison W. Breitman, Esquire filed a Notice of Intervention and Public Statement on behalf of the Office of Consumer Advocate (OCA).

On January 22, 2024, the Commission served a notice establishing an initial telephonic prehearing conference for this matter for Thursday, February 8, 2024 at 10:00 a.m. and assigning Administrative Law Judge (ALJ) Charece Z. Collins as the Presiding Officer.

On January 23, 2024, the Presiding Officer served a prehearing conference order setting forth the rules and expectations for the conference.

The telephonic prehearing conference was held as scheduled on February 8, 2024. The participants were:

| | |
|----------|--|
| Aqua | Michael W. Hassell, Esq.; Megan E. Rulli, Esq.; and Alexander R. Stahl, Esq. |
| OCA | Harrison W. Breitman, Esq. |
| OSBA | Steven C. Gray, Esq. |
| CAUSE-PA | John Sweet, Esq. |

At the conference, the Parties addressed preliminary procedural matters and requested 90 days to discuss settlement prior to proceeding with the formal litigation of this case. The Parties further indicated that they would send monthly status reports for the duration of the settlement period. The Presiding Officer granted the Parties' request.

On February 8, 2024, I issued Prehearing Order #1, which granted the parties until May 10, 2024 to discuss settlement, and required the Parties to submit monthly status reports on March 11, 2024, April 10, 2024, and May 10, 2024, respectively. Consistent with Prehearing Order #1, the Parties submitted timely status reports.

On May 10, 2024, the Parties advised that the Parties have discussed the potential settlement of this matter and believe that the matter can be resolved without the need for litigation. The Parties therefore requested that the settlement period be extended for an additional 30 days, until Monday, June 10, 2024, to allow time for the development of a term sheet. I granted the Parties' request. This Order sets forth the updated deadline in this case.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the active parties of record as of this date are Aqua, OCA, OSBA and CAUSE-PA.

2. That prior to formal litigation, the Parties have until **Monday, June 10, 2024**, to continue to discuss the potential settlement of this matter.

3. That the Parties shall e-mail an updated status report to the Presiding Officer no later than **June 10, 2024**.

4. That our e-mail distribution list is as follows. Any changes or corrections should be communicated to the undersigned, via e-mail, as soon as possible.

| Party | Counsel | E-mail |
|--------------|--------------------------------|--|
| Aqua | Michael W. Hassell, Esquire | mhassell@postschell.com |
| Aqua | Megan E. Rulli, Esquire | mrulli@postschell.com |
| Aqua | Devin T. Ryan, Esquire | dryan@postschell.com |

| | | |
|----------|--|--|
| Aqua | Garrett P. Lent, Esquire | glent@postschell.com |
| Aqua | Alexander R. Stahl, Esquire | astahl@aquaamerica.com |
| OCA | Harrison W. Breitman, Esquire | hbreitman@paoca.org |
| OCA | Melanie El Atieh, Esquire | melatieh@paoca.org |
| OSBA | Steven C. Gray, Esquire | sgray@pa.gov |
| CAUSE-PA | John Sweet, Esquire Ria Pereira, Esquire Elizabeth R. Marx, Esquire Lauren Berman, Esquire | PULP@pautilitylawproject.org |

From Office of OALJ

| Title | Name | E-mail |
|--------------|--------------------|--|
| ALJ | Charece Z. Collins | charcollin@pa.gov |

5. That, if the Parties deem a Protective Order to be necessary, Aqua will file a Petition for Protective Order with the Secretary’s Bureau (or the Parties may file a Joint Petition for Protective Order). If a Joint Petition is not filed, I will reach out to the parties regarding replies to the Petition filed by Aqua.

6. That, if the case does not resolve, a second prehearing conference may be scheduled, at which time a formal litigation schedule will be set and the remaining procedural matters for this case will be addressed, including, but not limited to, potential additional modifications to the discovery rules; service of documents; written testimony; and briefs.

In the event that the matter proceeds to litigation, the Commission's regulations relating to discovery (found at 52 Pa. Code §5.321, et seq.), are currently modified as proposed by OCA and agreed upon by the Parties as follows:

- (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.
- (3) Any discovery or discovery-related pleadings such as objections, motions, or answers to motions served after noon (12:00 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.
- (4) 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.
- (5) Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- (6) 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.
- (7) On the Record data requests will be provided within five (5) calendar days.

7. That it is the Commission's policy to encourage settlements. 52 Pa. Code §5.231(a). The Parties are commended for their continued attempts to resolve this matter in lieu of costly litigation. If a settlement is reached, a joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be filed with the Secretary for the Commission and served on the Presiding Officer.

Date: May 10, 2024

_____/s/_____

Charece Z. Collins
Administrative Law Judge

P-2023-3044459 -PETITION OF AQUA PENNSYLVANIA, INC FOR APPROVAL OF A LEAD SERVICE LINE REPLACEMENT PROGRAM

MICHAEL W HASSELL ESQUIRE
MEGAN E RULLI ESQUIRE
DEVIN T RYAN ESQUIRE
GARRETT P LENT ESQUIRE
POST & SCHELL PC
17 NORTH SECOND STREET
12TH FLOOR
HARRISBURG PA 17101-1601
717.612.6029
717.612.6032
717.731.1970
mhassell@postschell.com
mrulli@postschell.com
dryan@postschell.com
glent@postschell.com
Accepts eService

STEVEN C GRAY ESQUIRE
OFFICE OF SMALL BUSINESS
ADVOCATE
FORUM PLACE
555 WALNUT STREET 1ST FLOOR
HARRISBURG PA 17101
717.783.2525
717.783.2831
sgray@pa.gov
Served via email and first class mail

JOHN SWEET ESQUIRE
RIA PEREIRA ESQUIRE
ELIZABETH R MARX ESQUIRE
LAUREN BERMAN ESQUIRE
PA UTILITY LAW PROJECT
118 LOCUST STREET
HARRISBURG PA 17101
717.701.3837
717.710.3825
717.236.9486
jsweet@pautilitylawproject.org
rpereira@pautilitylawproject.org
emarx@pautilitylawproject.org
lberman@pautilitylawproject.org
Accepts eService

HARRISON W BREITMAN ESQUIRE
MELANIE EL ATIEH ESQUIRE
OFFICE OF CONSUMER ADVOCATE
555 WALNUT STREET 5TH FLOOR
FORUM PLACE
HARRISBURG PA 17101
717.783.5048
hbreitman@paoca.org
melatieh@paoca.org
Accepts eService

ALEXANDER R STAHL ESQUIRE
AQUA PENNSYLVANIA INC
762 W LANCASTER AVE
BRYN MAWR PA 19010
610.645.1130
astahl@aquaamerica.com
Accepts eService