

July 11, 2024

**Via Electronic Filing**

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

**Re: Docket Nos. C-2022-3036893 and C-2022-3037118  
SCH USA, LLC v. Aqua Pennsylvania Wastewater, Inc.  
Docket Nos. R-2024-3047824, et al.  
PA Public Utility Commission, et al. v. Aqua Pennsylvania Wastewater, Inc.  
Motion to Consolidate of Aqua**

Dear Secretary Chiavetta:

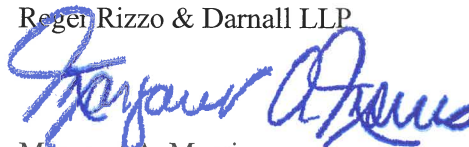
Attached for filing is the Motion of Aqua Pennsylvania Wastewater, Inc. to consolidate the Formal Complaints of SCH USA, LLC at Docket Nos. C-2022-3036893 and C-2022-3037118 with the pending base rate proceeding of Aqua Pennsylvania Wastewater, Inc. at Docket Nos. R-2024-3047824, et al.

A copy of the attached Motion to Consolidate has been provided to the relevant parties 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. John Coogan, PA Public Utility Commission [w/encl.]  
The Hon. Gail M. Chiodo, PA Public Utility Commission [w/encl.]  
The Hon. Alphonso Arnold III, PA Public Utility Commission [w/encl.]  
Heather S. D. Harrison, Aqua Pennsylvania, Inc. [w/encl.]  
Service List [w/encl.]

**Re: Docket Nos. C-2022-3036893 and C-2022-3037118  
SCH USA, LLC v. Aqua Pennsylvania Wastewater, 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).

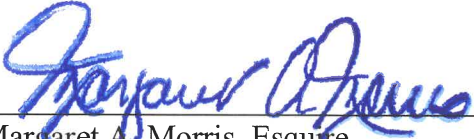
**Via Electronic Mail**

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Dated: July 11, 2024

  
\_\_\_\_\_  
Margaret A. Morris, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SCH USA, LLC	:	
	:	Docket No. C-2022-3036893
v.	:	Docket No. C-2022-3037118
	:	
AQUA PENNSYLVANIA WASTEWATER, INC.	:	
PENNSYLVANIA PUBLIC UTILITY COMMISSION, ET AL.	:	
	:	Docket No. R-2024-3047824, et al.
v.	:	
	:	
AQUA PENNSYLVANIA WASTEWATER, INC.	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.103(c), you are hereby notified that if you do not file a written response to the enclosed Motion to Consolidate of Aqua Pennsylvania Wastewater, Inc., **within twenty (20) days** from service of this Notice, the facts set forth by Aqua Pennsylvania Wastewater, 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 Consolidate, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Aqua Pennsylvania Wastewater, Inc., Margaret A. Morris, Esq., and the Honorable John M. Coogan, the Honorable Gail M. Chiodo, and the Honorable Alphonso Arnold III, presiding over these proceedings.

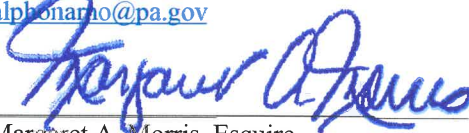
**File by Mail or e-filing with:**  
Rosemary Chiavetta, Esquire  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**  
Margaret A. Morris, Esquire  
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[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

The Hon. John M. Coogan  
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The Hon. Gail M. Chiodo  
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The Hon. Alphonso Arnold III  
[alphonarno@pa.gov](mailto:alphonarno@pa.gov)



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Date: July 11, 2024

*Counsel for Aqua Pennsylvania Wastewater, Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SCH USA, LLC	:	
	:	Docket Nos. C-2022-3036893
v.	:	C-2022-3037118
	:	
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v.	:	
	:	
Aqua Pennsylvania Wastewater, Inc., <i>et al.</i>	:	
	:	

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**MOTION TO CONSOLIDATE OF  
AQUA PENNSYLVANIA WASTEWATER, INC.**

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**TO THE ADMINISTRATIVE LAW JUDGE JOHN COOGAN, AND  
TO THE ADMINISTRATIVE LAW JUDGES GAIL M. CHIDO AND ALPHONSO  
ARNOLD III:**

Aqua Pennsylvania Wastewater, Inc. (“Aqua PA WW”) hereby moves to consolidate the Formal Complaints of SCH USA (“Complainant”) at Docket Nos. C-2022-3036893 and C-2022-3037118, collectively the “Consolidated Complaints” or “Complaints,” with the pending base rate proceeding of Aqua PA WW and Aqua Pennsylvania Inc. (“Aqua PA Water”) (collectively, “Aqua PA” or the “Company”), pursuant to 52 Pa. Code § 5.81, for purposes of adjudication because they raise common issues of fact and law.<sup>1</sup>

As explained herein, the Complaints involve the existing rates of Aqua PA WW applicable to the Lake Harmony wastewater operations under Rate Zone 4. Those rates were set

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<sup>1</sup> This Motion is being filed at each of the above-captioned dockets, and it will be separately served upon (a) the Administrative Law Judges assigned to each docket and (b) the parties in each docket.

after a fully-litigated base rate case at Docket Nos. R-2021-3027385 and R-2021-3027386 (the “2021 Rate Case”).<sup>2</sup> Indeed, both the Complaints seek “to pay rates that are reasonable and based on the actual wastewater service being provided.” Direct Testimony of Carlos Padilla, filed April 3, 2024. The objected to rates were established by the *Rate Case Order*, which formed the basis for Aqua PA WW’s *Compliance Tariff*.

The same rates challenged in the Complaints are also now subject to a pending base rate case. Specifically, in the Company’s pending base rate case at Docket Nos. R-2024-3047824, *et al.*, Aqua PA proposed changes to Aqua PA’s base water and wastewater rates designed to produce a total increase in annual revenues of \$126,675,472 based upon data for a fully projected future test year (“FPFTY”) ending December 31, 2025 (“2024 Base Rate Case”). The filing was made in compliance with the Commission’s regulations and contains all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase.

The Consolidated Complaints deals with the same subject matter, *i.e.*, the application of base rates for wastewater service to Rate Zone 4 customers within the Company’s certificated service territory. Therefore, in the interests of administrative efficiency and judicial economy, Aqua PA WW believes that the above-captioned matters should be consolidated for purposes of litigation, as there is substantial overlap as to the factual and legal questions raised in the 2024 Base Rate Case and the Consolidated Complaints.

In support of this Motion, Aqua PA WW states as follows:

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<sup>2</sup> On May 16, 2022, the Commission entered an Opinion and Order on the *2021 Rate Case* (the “*Rate Case Order*”). Relevant to the Complaint, the *Rate Case Order* authorized Aqua PA WW to prepare a tariff to collect a set revenue requirement from Lake Harmony Ratepayers, like the Complainant. On May 23, 2022, Aqua PA WW filed its compliance tariff and proof of revenues (the “*Compliance Tariff*”), consistent with the *Rate Case Order*.

## **I. BACKGROUND**

1. Aqua PA WW is a “public utility” as that term is defined under the Public Utility Code, 66 Pa. C.S. § 102, subject to the regulatory jurisdiction of the Commission.

2. Aqua PA WW provides wastewater service to approximately 40,000 customers throughout the Commonwealth of Pennsylvania pursuant to its Commission-approved tariff.

3. The Complainant is a non-residential wastewater customer of Aqua PA WW served under Rate Zone 4. The Complainant’s service address is located in the Lake Harmony Division.

4. On November 21, 2022, Aqua PA WW was served with the above-captioned Resort Complaint at Docket No. C-2022-3036893 which, *inter alia*, alleged that the methodology used by Aqua PA WW to establish the Wastewater tariff, as applied to the Complainant in the *2021 Rate Case* was unreasonable arguing that the assigned Equivalent Dwelling Unit (“EDU”) for each of the three disputed accounts was unreasonable based on its occupancy level.

5. On December 12, 2022, Aqua PA WW filed its Answer and New Matter to the Resort Complaint. In its New Matter, Aqua PA WW averred that the three disputed accounts were properly billed consistent with the Commission-approved Rate Zone 4 Tariff.

6. On December 7, 2022, Aqua PA WW was served with the Laundry Complaint filed by the Complainant alleging the same issues as the Resort Complaint. The Laundry Complaint was docketed by the Commission at Docket No. C-2022-3037118.

7. On December 27, 2022, Aqua PA WW filed its Answers and New Matter to the Laundry Complaint. Aqua PA WW averred that the three disputed accounts were properly billed consistent with the Commission-approved Rate Zone 4 Tariff.

8. On December 11, 2022, the Complainant filed a Reply to Aqua PA WW's New Matter at the Resort Complaint docket. On December 27, 2022, the Complainant filed a Reply to Aqua PA WW's New Matter at the Laundry Complaint docket.

9. On January 4, 2023, the Commission issued a Telephonic Hearing Notice at both above-captioned Complaints dockets, scheduling a telephonic evidentiary hearing for March 17, 2023.

10. On January 6, 2023, Administrative Law Judge John Coogan issued a Consolidation and Prehearing Order in the Complaints proceeding.

11. On March 9, 2023, the Complainant requested that the scheduled hearing be converted to a Prehearing Conference.

12. On March 10, 2023, Judge Coogan issued an Order granting the request and the Commission issued a Notice converting the scheduled hearing to a prehearing conference. The parties were directed to file prehearing memoranda by March 8, 2023. Both parties timely filed their respective Prehearing Memorandum.

13. The Prehearing Conference was held on March 17, 2023, wherein the parties discussed settlement, witnesses, presently identified issue and a litigation schedule.

14. On April 17, 2023, Aqua PA WW filed a Motion for Judgment on the Pleadings.

15. On May 8, 2023, the Complainant filed its Answer to the Motion for Judgment on the Pleadings.

16. On May 21, 2023, Judge Coogan issued an Order denying the Motion for Judgment on the Pleadings.

17. On May 23, 2023, the parties advised Judge Coogan that the parties were actively and in good faith engaging in settlement discussions and requesting that prior to establishing further scheduling, the matter be held in abeyance.

18. On May 31, 2023, Judge Coogan issued an Order staying the consolidated Complaints proceeding and directing each party to provide a status report no later than June 30 2023. Several status reports were filed.

19. On January 1, 2024, the Scheduling Order was issued.

20. On April 3, 2024, the Complainant timely filed its written testimony which, *inter alia*, confirmed that the Laundry Account was not in dispute.

21. On April 18, 2024, the parties filed a Joint Motion for a Protective Order.

22. On April 26, 2024, Judge Coogan issued a Protective Order.

23. On May 8, 2024, Aqua PA WW timely filed its written testimony.

24. The 2024 Base Rate Case was initiated on May 23, 2024, when Aqua PA filed on a consolidated basis Tariff Water – Pa. P.U.C. No. 4 (“Tariff Water No. 4”) and Tariff Sewer – Pa. P.U.C. No. 4 (“Tariff Sewer No. 4”) with the Commission to be effective for service rendered on or after July 22, 2024.

25. On June 13, 2024, the Commission issued an Order suspending Tariff Water No. 4 and Tariff Sewer No. 4 until February 22, 2024, unless otherwise permitted by Commission Order to become effective at an earlier date (“Suspension Order”).

26. On June 27, 2024, the Complainant late-filed a Petition to Intervene and Prehearing Memorandum in the 2024 Base Rate Case raising the same issues as raised in the Consolidated Complaints.

27. On July 1, 2024, a Prehearing Conference was held in the 2024 Base Rate Case.

## II. MOTION TO CONSOLIDATE

28. Aqua PA WW herein respectfully requests that the 2024 Base Rate Case at Docket Nos. R-2024-3047824, *et al.*, and the Complaints at Docket Nos. C-2022-3036893 and C-2022-3037118 be consolidated for disposition because the 2024 Base Rate Case and the Complaints are interrelated and raise common issues of law in fact.

29. All of the above-captioned proceedings involve consideration of the base rates for wastewater service applicable to ratepayers in the Lake Harmony Division.

30. The Consolidated Complaints seeks to challenge specific components of the Company's *Compliance Filing*, which established rates applicable to Lake Harmony wastewater operations as a part of the 2021 Base Rate Case

31. The 2024 Base Rate Case seeks Commission approval to change the rates applicable to Lake Harmony wastewater operations that were established through the 2021 Base Rate Case.

32. Additionally, pursuant to the June 13, 2024 Suspension Order, the 2024 Base Rate Case shall include consideration of the lawfulness, justness, and reasonableness of the existing rates, rules, and regulations of Aqua PA WW, which the Complainant is challenging. *See* Suspension Order, Ordering ¶ 4.

33. If these cases were to proceed and not be consolidated, the Commission would, in effect, be reviewing the same complex base rate-related issues twice and in parallel.

34. Also, depending on the cases' outcomes, the Commission theoretically could grant relief in the two cases that conflicts or is inconsistent.

35. Therefore, it would be a waste of administrative and judicial resources to litigate these matters separately when they raise wholly overlapping issues of fact and law and involve

concerns over Aqua PA WW's existing and proposed rates for customers in the Lake Harmony Division.

36. Thus, the consolidation of these proceedings will promote the efficient use of the time and resources of the parties and the Commission.

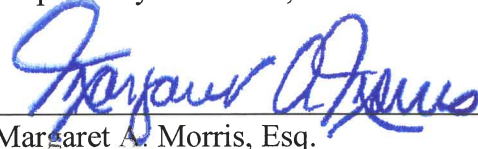
37. Aqua PA WW contacted the counsel for the Complainant on July 10, 2024 to discuss consolidation. By email, dated July 11, 2024, counsel for the Complainant advised it opposes the consolidation request.

38. For these reasons, Aqua PA WW respectfully requests that these proceedings be consolidated for purposes of disposition.

**III. CONCLUSION**

WHEREFORE, Aqua Pennsylvania Wastewater, Inc. respectfully requests that the Pennsylvania Public Utility Commission enter an order consolidating the 2024 Base Rate Case at Docket Nos. R-2024-3047824, *et al.*, with the consolidated Complaint proceeding at Docket Nos. C-2022-3036893 and C-2022-3037118 for purposes of disposition.

Respectfully submitted,



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Date: July 11, 2024

*Attorney for Aqua Pennsylvania Wastewater,  
Inc.*