



**VIA E-FILING**

August 6, 2024

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


**Re: Joint Application of Aqua Pennsylvania, Inc., and its subsidiary, Honesdale Consolidated Water Company, for the approval of: (1) the transfer to Aqua, through merger, of all property of Honesdale used or useful in the public service; (2) the right of Aqua to begin to offer, render, furnish, and supply water service in portions of the Borough of Honesdale, Townships of Texas and Dyberry, Wayne County Pennsylvania nunc pro tunc; and (3) the abandonment by Honesdale of public utility service in portions of the Borough of Honesdale, Townships of Texas and Dyberry, Wayne County Pennsylvania, and Request for Approval of Merger Between Affiliates  
Docket No. A-2024-3049920  
Docket No. A-2024-3049921**

Dear Secretary Chiavetta:

Enclosed please find the Prehearing Memorandum of the Joint Applicants Aqua Pennsylvania, Inc. ("Aqua") and Honesdale Consolidated Water Company ("Honesdale") in connection with the Initial Prehearing Conference to be held on August 9, 2024.

If you have any questions regarding this filing, please contact me at 610-645-1130.

Sincerely,



Alexander R. Stahl  
Regulatory Counsel

cc: Certificate of Service (w/encl.)

Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**The Honorable Arlene Ashton, Presiding**

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**Joint Application of Aqua Pennsylvania, Inc., and its subsidiary, Honesdale Consolidated Water Company, for the approval of: (1) the transfer to Aqua, through merger, of all property of Honesdale used or useful in the public service; (2) the right of Aqua to begin to offer, render, furnish, and supply water service in portions of the Borough of Honesdale, Townships of Texas and Dyberry, Wayne County Pennsylvania nunc pro tunc; and (3) the abandonment by Honesdale of public utility service in portions of the Borough of Honesdale, Townships of Texas and Dyberry, Wayne County Pennsylvania, and Request for Approval of Merger Between Affiliates :**

**Docket No. A-2024-3049920**

**Docket No. A-2024-3049921**

**PREHEARING MEMORANDUM OF JOINT APPLICANTS  
AQUA PENNSYLVANIA, INC. AND  
HONESDALE CONSOLIDATED WATER COMPANY**

AND NOW, come Aqua Pennsylvania, Inc. (“Aqua”) and Honesdale Consolidated Water Company (“Honesdale”) (together Aqua and Honesdale referred to as “Joint Applicants”) and submit this Prehearing Memorandum in connection with the Telephonic Prehearing Conference scheduled to be held in the above captioned matter on August 9, 2024.

**I. BACKGROUND**

This proceeding concerns the Joint Application filed by Aqua and the Honesdale Consolidated Water Company (“Honesdale”) with the Pennsylvania Public Utility Commission (“Commission”) for the approval of merger of Honesdale into Aqua pursuant to Sections 1102 and 2102 of the Public Utility Code (“Code”), 66 Pa. C.S. §§ 1102 and 2102 (“Joint Application”).

By Secretarial Letter dated July 5, 2024 the Commission directed Aqua to publish notice of the Joint Application in a newspaper of general circulation in the area involved once a week for two consecutive weeks and to serve a copy of the Joint Application on various municipalities, water and wastewater providers, and the Pennsylvania Department of Environmental Protection (“DEP”).

On July 15, 2024, the Office of Small Business Advocate (“OSBA”) entered the Appearance of Rebecca Lyttle.

On July 22, 2024, the OSBA filed a Notice of Intervention and Public Statement.

Administrative Law Judge Arlene Ashton was assigned to preside over the Joint Application proceeding. A Telephonic Prehearing Conference was noticed for August 9, 2024, at 10:00 AM.

Judge Ashton issued a Prehearing Conference Order on July 25, 2024. Paragraph 1 of the Prehearing Conference Order directs each party to file and serve a prehearing memorandum on or before 4:00 PM on Tuesday, August 6, 2024.

## **II. LIST OF ISSUES AND AQUA’S POSITION IN REGARD TO THEM**

The central issue in this proceeding is whether the Commission should approve the Joint Application for merger of Honesdale, a wholly owned subsidiary of Aqua, in to Aqua. Section 1102 of the Public Utility Code, 66 Pa. C.S. § 1102, requires Commission approval, in the form of a certificate of public convenience, for Aqua to merge its subsidiary Honesdale into Aqua with Aqua being the surviving entity. Under Section 1103 of the Public Utility Code, 66 Pa. C.S. § 1103, the Commission may issue a certificate of public convenience if it finds that the certificate is “necessary or proper for the service, accommodation, convenience, or safety of the public.” *See City of York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825 (1972), wherein the Pennsylvania Supreme

Court explained in the context of a utility merger that the issuance of a certificate of public convenience requires the Commission to find affirmatively that public benefits will result from the merger.

Section 2102(a) of the Public Utility Code, 66 Pa. C.S. § 2102(a), provides for Commission approval of the exchange of property between affiliates. Section 2102(a) provides, in pertinent part:

No contract or arrangement providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, financial, or similar services, and no contract or arrangement for the purchase, sale, lease, or exchange of any property, right, or thing or for the furnishing of any service, property, right or thing other than those above enumerated, made or entered into after the effective date of this section between a public utility and any affiliated interest shall be valid or effective unless and until such contract or arrangement has received the written approval of the commission.

Since Honesdale is a subsidiary of Aqua, and they are therefore affiliates as defined by Section 2101 of the Public Utility Code, 66 Pa. C.S. § 2101, Commission approval is required for the Plan of Merger included in this Application.

Joint Applicants will support the merger and will show that the merger of Honesdale into Aqua is necessary or proper for the service, accommodation, convenience, or safety of the public. The Joint Application if approved will allow Aqua to eliminate a subsidiary and the attendant filings made for the subsidiary thereby promoting corporate efficiency.

### **III. WITNESSES**

At this time, Joint Applicants anticipate calling the following witness:

William C. Packer  
Vice President, Regulatory Accounting and Regional Controller  
Essential Utilities, Inc.  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Mr. Packer will address the ownership of Honesdale, the plan for merger, financial matters, and the benefits of merging and eliminating the additional corporate subsidiary of Aqua. Joint Applicants asks that any and all contact with Mr. Packer be through counsel.

Joint Applicants reserve the right to call additional witnesses, as necessary, and agree to notify Administrative Law Judge Ashton and the parties promptly should Joint Applicants determine that additional witnesses will be called.

#### **IV. DISCOVERY**

Joint Applicants do not propose any modification to the discovery regulations set forth in 52 Pa. Code § 5.321 et seq.

#### **V. LITIGATION SCHEDULE**

Joint Applicants have discussed the litigation schedule with the OSBA and propose the following litigation schedule. Joint Applicants will cooperate with Judge Ashton and the litigating parties to arrive at a mutually acceptable litigation schedule.

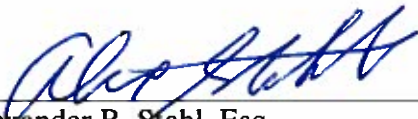
Friday August 9, 2024	Prehearing Conference
Tuesday September 17, 2024	Aqua Direct Testimony
Friday October 18, 2024	Other Parties Direct
Friday November 8, 2024	Rebuttal Testimony
Friday November 22, 2024	Surrebuttal Testimony
Tuesday December 3 and Wednesday December 4, 2024	Evidentiary Hearings
Monday December 20, 2024	Main Brief
Friday January 15, 2025	Reply Brief

#### **VI. SETTLEMENT**

Joint Applicants are willing to make a good faith effort to resolve this matter through settlement. If a full or partial settlement cannot be reached, Joint Applicants are prepared to litigate this proceeding.

Respectfully submitted,

**AQUA PENNSYLVANIA, INC.**



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Alexander R. Stahl, Esq.  
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[astahl@aquaamerica.com](mailto:astahl@aquaamerica.com)  
*Counsel for Aqua Pennsylvania, Inc.*

**HONESDALE CONSOLIDATED WATER  
COMPANY**



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Frances P. Orth, Esq.  
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610-645-1126  
[fporth@essential.co](mailto:fporth@essential.co)  
*Counsel for Honesdale Consolidated Water  
Company*

Date: August 6, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**The Honorable Arlene Ashton, Presiding**

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**Joint Application of Aqua Pennsylvania, Inc., :  
and its subsidiary, Honesdale Consolidated :  
Water Company, for the approval of: (1) the :  
transfer to Aqua, through merger, of all :  
property of Honesdale used or useful in the :  
public service; (2) the right of Aqua to begin to : Docket No. A-2024-3049920  
offer, render, furnish, and supply water service :  
in portions of the Borough of Honesdale, :  
Townships of Texas and Dyberry, Wayne :  
County Pennsylvania nunc pro tunc; and (3) the : Docket No. A-2024-3049921  
abandonment by Honesdale of public utility :  
service in portions of the Borough of Honesdale, :  
Townships of Texas and Dyberry, Wayne :  
County Pennsylvania, and Request for Approval :  
of Merger Between Affiliates :**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 6th day of August, 2024, served a true and correct copy of the foregoing Prehearing Memorandum of Aqua Pennsylvania, Inc. and Honesdale Consolidated Water Company, upon the persons and in the manner set forth below:

**VIA ELECTRONIC MAIL, BEFORE 4:00 PM**

The Honorable Arlene Ashton  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
aashton@pa.gov

Rebecca Lyttle  
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Forum Place, 1<sup>st</sup> Floor  
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*Counsel for Honesdale Consolidated Water  
Company*

  
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Alexander R. Stahl, Esq.