

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SCH USA, LLC	:	
	:	C-2022-3036893
v.	:	C-2022-3037118
	:	
Aqua Pennsylvania Wastewater, Inc.	:	

ORDER
ON BRIEFS, ADMITTING EVIDENCE, AND CLOSING OF THE RECORD

On November 21, 2022, SCH USA, LLC (SCH or Complainant) filed a Formal Complaint against Aqua Pennsylvania Wastewater, Inc. (Aqua Wastewater or Respondent) at Docket Number C-2022-3036893 concerning unmetered wastewater service to three separate accounts at three separate service locations. On November 29, 2022, SCH filed a Formal Complaint against Aqua Wastewater at Docket Number C-2022-3037118 concerning unmetered wastewater service to one account at one service location. The Formal Complaint at Docket Number C-2022-3037118 was served on Aqua Wastewater on December 7, 2022. In both Formal Complaints, Complainant is alleging Aqua Wastewater is threatening to shut off its service and is incorrectly charging it for unmetered wastewater service. SCH claims it is being incorrectly charged because it is being charged pursuant to a settlement agreement that neither it nor Aqua Wastewater were party to, and its actual wastewater usage is far less than the volume reflected in the unmetered rate. Complainant requests a payment arrangement and that it be charged on a metered basis going forward.

On December 12, 2022, Aqua Wastewater filed an answer and new matter to the Formal Complaint filed at Docket Number C-2022-3036893. On December 27, 2022, Aqua Wastewater filed an answer and new matter to the Formal Complaint filed at Docket Number C-2022-3037118. In both answers Aqua Wastewater avers SCH is billed pursuant to the Commission-approved Rate Zone 4 tariff and denies there are any incorrect charges on the

accounts. Aqua Wastewater denies that the Commission can direct a payment arrangement for SCH. In both new matters Aqua Wastewater avers Complainant does not allege Respondent has violated the Public Utility Code, Pennsylvania Public Utility Commission regulations or orders, or its Commission-approved tariff.

On December 29, 2022, SCH filed a reply to new matter at both dockets. In both replies to new matters, although SCH admits it is being billed pursuant to Aqua Wastewater's Rate Zone 4 tariff, SCH alleges that it is being incorrectly charged based on a number of Equivalent Dwelling Units (EDU) included in a settlement agreement rather than applying the definition of EDU contained in Aqua Wastewater's tariff.

On January 4, 2023, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for Friday, March 17, 2023 at 10:00 a.m. and assigning me as the presiding officer. In anticipation of that hearing, I issued a consolidation and prehearing order on January 6, 2023, setting forth various rules that would govern the March 17, 2023 evidentiary hearing, as well as consolidating hearing of the two Formal Complaints.

On March 10, 2023, I issued an order, converting the March 17, 2023 evidentiary hearing to a prehearing conference. Also on March 10, 2023, a notice converting the evidentiary hearing to a prehearing conference was issued. Pursuant to the March 10, 2023 order, parties were to file prehearing memoranda by March 8, 2023. Both SCH and Aqua Wastewater filed a prehearing memorandum on March 8, 2023.

A prehearing conference was held on March 17, 2023. Counsel for both parties appeared. During the prehearing conference, parties discussed settlement, witnesses, presently identified issues, and a litigation schedule. Consistent with its prehearing memorandum, Aqua Wastewater raised issues it asserted should be resolved prior to scheduling an evidentiary hearing. On March 10, 2023, I issued a scheduling order, setting April 17, 2023 as the date by which Aqua Wastewater should file a motion regarding issues it wishes to resolve prior to scheduling an evidentiary hearing, and May 8, 2023 as the date by which SCH should file a

response to any motion filed by Aqua Wastewater. On April 17, 2023, Aqua Wastewater filed a motion for judgment on the pleadings. On May 8, 2023, SCH filed an answer to the motion for judgment on the pleadings. On May 22, 2023, I issued an order, denying Aqua Wastewater’s motion for judgment on the pleadings.

On May 31, 2023, I issued an order staying this proceeding and directing each party to provide a status report by June 30, 2023. Subsequent to the May 31, 2023 order, parties continued to engage in settlement discussions and provided me several status reports by e-mail indicating that settlement discussions were ongoing. On January 11, 2024, I issued an order memorializing the litigation schedule agreed to by the parties and provided further instructions regarding this proceeding. On June 5, 2024, I issued an order setting a new litigation schedule as agreed to by the parties as follows:

SCH Written Direct Testimony (served)	April 3, 2024
Aqua Written Direct Testimony (served)	May 15 & 16, 2024
Aqua Written Rebuttal in Response to SCH’s April 3, 2024 Direct Testimony	July 12, 2024
SCH Written Surrebuttal to Aqua’s May 15 & 16 Direct Testimony and July 12 Rebuttal Testimony	August 23, 2024
Hearings (Telephonic)	September 24 & 25, 2024

On July 11, 2024, Aqua Wastewater filed a motion to consolidate the Formal Complaints of SCH USA, LLC at Docket Nos. C-2022-3036893 and C-2022-3037118 with Aqua Wastewater’s pending base rate proceeding for its wastewater service at Docket No. R-2024-3047824. Also on July 11, 2024, Aqua Wastewater filed a motion to stay the procedural schedule in the formal complaint proceedings (motion to stay) because of its pending motion to

consolidate. On July 31, 2024, SCH filed an answer to Aqua Wastewater's motion to consolidate and motion to stay. On August 12, 2024, I issued an order denying Aqua Wastewater's motion to consolidate and motion to stay.

Parties submitted pre-served testimony and exhibits consistent with the above litigation schedule. An evidentiary hearing was held on September 24, 2024. During the hearing, the parties' pre-served testimony and exhibits were admitted into the record.¹ Parties agreed that main briefs would be due on January 9, 2025 and reply briefs would be due January 29, 2025. The evidentiary hearing adjourned on September 24, 2024, and the hearing scheduled for September 25, 2024 was cancelled. No further hearings are scheduled to take place in this proceeding.

THEREFORE,

IT IS ORDERED:

1. That Exhibits SC 1, 2, and 3 attached to Aqua Pennsylvania Wastewater, Inc. witness Steve Clark's rebuttal testimony are admitted into the record;
2. That main briefs are due on or before Thursday, January 9, 2025;
3. That reply briefs are due on or before Wednesday, January 29, 2025;
4. That the briefs must substantially comply with the Commission's regulations at 52 Pa.Code §§ 5.501, 5.502;

¹ Also on September 24, 2024, counsel for Aqua Wastewater e-mailed the undersigned and counsel for SCH, stating that she was unsure whether she moved to admit into the record Exhibits SC 1, 2, and 3 from Aqua Wastewater witness Steve Clark's rebuttal testimony. By e-mail sent September 24, 2024, counsel for SCH stated that SCH did not object to the admission into the record of Exhibits SC 1, 2, and 3 from Aqua Wastewater witness Steve Clark's rebuttal testimony. For the avoidance of doubt, this order admits Exhibits SC 1, 2, and 3 from Aqua Wastewater witness Steve Clark's rebuttal testimony into the record.

5. That the briefs must contain: (a) a concise statement or counter-statement of the case; (b) an argument, with sufficient citations to record evidence, preceded by a summary; and (c) a conclusion with requested relief;

6. That main briefs shall include (a) proposed findings of fact, together with page references to the record; (b) proposed conclusions of law, together with legal citations; and (c) proposed ordering paragraphs;

7. That if a party submits a brief containing confidential information, the party must submit two versions of the brief: (1) one version conspicuously marked as containing confidential information, only to be served to the ALJ and parties; and (2) a second, public version with all confidential information redacted. When filing a brief containing confidential information, parties must clearly indicate to the Commission's Secretary's Bureau that the brief contains confidential information to ensure that the brief is not published on the Commission's website, and to ensure that it is appropriately filed;

8. That the parties shall file the main brief with the Commission no later than 4:30 p.m. on the date due;

9. That the parties shall file the reply brief with the Commission no later than 4:30 p.m. on the date due;

10. That any brief not filed and served on or before the dates set forth above will not be accepted except by special permission;

11. That if a brief contains a citation to an unreported decision which is not available on LEXIS or the Commission's website, a copy of that unreported decision must be appended to the brief;

12. That the parties are to e-mail me a copy of their as-filed briefs in a Microsoft Word-formatted document in addition to Adobe or other compatible PDF format;

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