

COMMONWEALTH OF PENNSYLVANIA



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January 28, 2025

Via Electronic Filing

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

Re: Application of Aqua Pennsylvania
Wastewater, Inc. pursuant to Sections 507,
508, 1102, and 1329 of the Public Utility
Code for Approval of its Acquisition of the
Wastewater System Assets of the City of
Beaver Falls
Docket No. A-2022-3033138

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Conference Memorandum in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 320580
HBreitman@paoca.org

Enclosures

cc: The Honorable F. Joseph Brady (email only: fbrady@pa.gov, pmcneal@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Application of Aqua Pennsylvania :
Wastewater, Inc. Pursuant to Sections 1102, :
1329 and 507 of the Public Utility Code for : Docket No. A-2022-3033138
Approval of its Acquisition of the Wastewater :
System Assets of the City of Beaver Falls :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Conference Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission's electronic filing system.

Dated this 28th day of January 2025.

SERVICE BY E-MAIL ONLY

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Pennsylvania Public Utility Commission
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Patrick M. Cicero
Consumer Advocate

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555 Walnut Street
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717-783-5048

Dated: January 28, 2025

/s/ Harrison W. Breitman
Harrison W. Breitman, Esq.
Assistant Consumer Advocate
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Aqua Pennsylvania	:	
Wastewater, Inc. Pursuant to Sections 507,	:	
508, 1102 and 1329 of the Public Utility	:	Docket No. A-2022-3033138
Code for Approval of its Acquisition of the	:	
Wastewater System Assets of the City of	:	
Beaver Falls	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, the Commission’s regulations at 52 Pa. Code §§ 5.221-5.224, and in response to the January 14, 2025, Prehearing Conference Order issued by the Honorable Administrative Law Judge (ALJ) F. Joseph Brady of the Office of Administrative Law Judge (OALJ) of the Pennsylvania Public Utility Commission (Commission), in the captioned proceeding, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On December 30, 2024, the Commission accepted for filing Aqua Pennsylvania Wastewater Inc.’s (Aqua’s) application for the acquisition of the City of Beaver Falls (City) wastewater system assets (Application). In its filing, Aqua requests that the Commission grant certificate of public convenience authority and other necessary approvals: (1) to purchase the City’s wastewater system assets for \$41,250,000; (2) to begin providing wastewater service in the territory currently served by the City; (3) to set the ratemaking rate base value of the to-be-acquired assets under Section 1329(c)(2) of the Public Utility Code; and (4) to enter into certain municipal

contracts with Big Beaver Borough, West Mayfield Borough, White Township, North Sewickley Township, Eastvale Borough, Patterson Township, and Patterson Heights Borough.

On April 27, 2023, the OCA filed a Protest and Public Statement in this matter.

On March 17, 2023, the Office of Small Business Advocate (OSBA) filed Notice of Appearance and a Notice of Intervention.

On March 20, 2023, counsel for the Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance.

On April 5, 2023, West Mayfield Borough, White Township, Patterson Heights Borough and Patterson Township filed Protests. On February 13, 2024, West Mayfield Borough, White Township, Patterson Heights Borough and Patterson Township withdrew their Protests and simultaneously submitted Letters of Consent to Sale.

On January 6, 2025, the counsel for the City filed a Notice of Appearance.

On January 11, 2025, the Application was published in the *Pennsylvania Bulletin* and the Commission set a protest deadline of January 27, 2025. 55 Pa.B. 426.

The OALJ assigned the case to ALJ Brady and scheduled a Prehearing Conference for Wednesday, January 29, 2025.

On January 14, 2025, ALJ Brady issued an order requiring parties to file prehearing conference memoranda on or before January 28, 2025.

II. ISSUES

Based upon a preliminary analysis of Aqua's filing, the OCA compiled a list of issues that it anticipates will be included in its investigation of the proposed acquisition. It is anticipated that other issues will arise and may be pursued as discovery proceeds, and the OCA reserves the right to pursue such issues in discovery and testimony.

The OCA has identified the following issues that may require further review as follows:

1. The OCA submits that additional information is required to determine if approval of the Application is in fact necessary for the accommodation or convenience of the public. The law is clear that, for an acquisition to be approved, there must be a showing of substantial affirmative public benefits.
2. The OCA will review the reasonableness and validity of Aqua's and the City's commissioned appraisals.
3. The OCA submits that while rates will not be determined in this case, the rate impact of the proposed acquisition price of \$41,250,000.00 must be considered in this case when weighing the relative merits of whether this application should be approved.

III. WITNESSES / EVIDENCE

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary. The witnesses will present testimony in written form and will also attach various exhibits, documents and explanatory information that will assist in the presentation of the OCA's case. The OCA's witnesses are:

Ratemaking Rate Base Value/Fair Market Value:

David J. Garrett
101 Park Avenue
Suite 1125
Oklahoma City, OK 73102
E-Mail: dgarrett@resolveuc.com

Substantial Affirmative Public Benefits:

Nicholas A. DeMarco
Regulatory Analyst
Office of Consumer Advocate
555 Walnut St., 5th Floor
E-Mail: ndemarco@paoca.org

The OCA reserves the right to call additional witnesses and will inform the ALJ and the parties if it determines that an additional witness(es) will be necessary.

IV. PROPOSED SCHEDULE

The OCA continues to work with the Company and the parties on a procedural schedule within the time afforded for litigation of this matter. In consultation with other statutory parties, the OCA proposes the following schedule:

Other Parties' Direct	Friday, February 21, 2025
Rebuttal Testimony	Friday, February 28, 2025
Surrebuttal Testimony	Friday, March 7, 2025
Written Rejoinder	Tuesday, March 11, 2025
Telephonic Evidentiary Hearing	Thursday, March 13, 2025
Main Briefs	Wednesday, March 26, 2025
Reply Briefs	Friday, April 4, 2025

V. SERVICE ON THE OCA

The OCA respectfully requests that the Presiding Officer permit electronic service without the requirement of a follow-up hard copy. The OCA will be represented in this case by the attorneys listed below:

Harrison W. Breitman, Assistant Consumer Advocate
Emily A. Farren, Assistant Consumer Advocate

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The OCA created a group e-mail address, provided above. This is the only e-mail address that is required for service on the OCA. The OCA's group e-mail address will provide the emailed materials to all members of the OCA team including the consultant listed above.

For the purposes of the Prehearing Conference, Ms. Farren will be the primary attorney speaking on behalf of the OCA.

VI. SETTLEMENT

The OCA is willing to participate in settlement discussions.

VII. DISCOVERY

After rebuttal is served, the OCA proposes that the deadlines should be reduced as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- F. 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 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

VIII. PUBLIC INPUT HEARINGS

The OCA is aware of at least twelve (12) informal comments/objections that have been filed with the Commission. As such, the OCA requests that two in-person public input hearings be held in the Company's service territory (one in the afternoon and evening of a single day) given the size of the proposed increase and the limited geographical area of the service territory. Moreover, the OCA requests that at least one telephonic public input hearings be held to accommodate members of the public who cannot attend the in-person public input hearing. The OCA further requests that the public input hearings be held on Tuesday, February 18, and Wednesday, February 19.

Attached as Appendix A is the OCA's proposed draft Notice for the Public Input Hearing (to be completed with details as determined by the presiding ALJ). The OCA requests the following:

- A. Given the size of the customer base and service territory, a total of four (4) Public Input Hearings be held, two in-person and two telephonic.
- B. The public input hearings be held in the afternoon and evening.
- C. Pre-registration be either encouraged or required for telephonic hearings only, and if required, pre-registration be required by 10:00 a.m. on the day of the telephonic Public Input Hearing at which the witness seeks to testify.
- D. Hearing exhibits be required to be submitted to the ALJ by 10:00 a.m. the day before the Public Input Hearing at which the witness seeks to testify.
- E. The Commission's notice of the Public Input Hearings will include the phone numbers and access codes necessary for participants to use to fully access all telephonic Public Input Hearings.
- F. The Company will be required to, at a minimum, generate a notice of the Public Input Hearings that contains are relevant information as to date, time, location, and phone numbers and access codes and further be required to advertise the notice: (1) in the general readership section (not legal section) of local newspapers within the service territory; (2) on its website; and (3) in social media posts which the Company utilizes to advertise generally.

- G. That the other parties involved in the proceeding, including the OCA, be permitted to review these public input announcements prior to their publication and distribution and have input into which publications the ads are placed.

Respectfully Submitted,

/s/ Emily A. Farren

Emily A. Farren

Assistant Consumer Advocate

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Harrison W. Breitman

Assistant Consumer Advocate

Pa. Attorney I.D. # 320580

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Counsel for:
Patrick M. Cicero
Consumer Advocate

Dated: January 28, 2025

OCA APPENDIX A

NOTICE OF IN-PERSON AND TELEPHONIC PUBLIC INPUT HEARINGS

For the Proposed Acquisition of the City of Beaver Falls Wastewater System

Docket No.
Docket No. A-2022-3033138

The Pennsylvania Public Utility Commission (PUC) will conduct four (4) Public Input Hearings concerning Aqua Pennsylvania's proposed acquisition of the City of Beaver Falls wastewater system. The in-person and telephonic hearings will be held at the following times and places:

Presiding Officer: Administrative Law F. Joseph Brady

IN-PERSON PUBLIC INPUT HEARINGS
Pre-registration is not required.

Date: [Here]
Time: [Here]
Location: [Here]

Date: [Here]
Time: [Here]
Location: [Here]

TELEPHONIC PUBLIC INPUT HEARINGS
Pre-registration is [encouraged/required]. Read below.

Date: [Here]
Time: [Here]
Pre-registration is [encouraged/required] by [same day] at 10AM.

Date: [Here]
Time: [Here]
Pre-registration is [encouraged/required] by [same day] at 10AM.

Toll-free Conference Number: xxx.xxx.xxxx
PIN Number: xxxxxxxx

- You must dial the toll-free Conference number above
- You must enter the PIN number above when instructed
- You must speak your name when prompted, and press #
- Then, the telephone system will connect you to the hearing

PRE-REGISTRATION FOR TELEPHONIC PUBLIC INPUT HEARINGS: To testify at the telephonic Public Input Hearings, pre-registration is [encouraged/required] by [day of the hearing] at 10AM. Failure to pre-register could result in you not being called to testify by the PUC judge. To pre-register to testify by telephone, please contact the PUC Judge's Legal Assistant, [name], by e-mail at [e-mail address] or by phone at [xxx.xxx.xxxx] and provide the requested information.

NEED ASSISTANCE WITH PRE-REGISTRATION? If you need assistance pre-registering to testify, you may have someone register for you, but they will need to provide the PUC Judge all the information listed above. Additionally, if more than one person in your household would like to testify, one person may pre-register for other individuals in the same household by providing the PUC Judge's Legal Assistant with the above-listed information for each individual.

REQUESTS FOR INTERPRETERS: If you require an interpreter, please pre-register as soon as possible. If you register too close to the hearing date, we may not have enough time to arrange for an interpreter. If you request an interpreter, the PUC will make reasonable efforts to have one present. AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

HEARING EXHIBITS: If you have any hearing exhibits to which you will refer during the hearing, please e-mail them to the PUC Judge's Legal Assistant, [name], at [e-mail address]. The PUC Judge will forward your exhibits to all the parties. Exhibits for the public input hearing must be received by the PUC Judge by [the day before the hearing] at 10AM.

QUESTIONS? The Pennsylvania Office of Consumer Advocate (OCA) represents the interests of utility customers before the PUC. If you have questions about the public input hearings or the Company's requested rate increase, please contact the OCA toll free at 1-800-684-6560 or by e-mail at consumer@paoca.org. Additionally, the OCA can help customers pre-register for the Public Input Hearings.

OTHER WAYS TO BE HEARD: If you want to be heard about the proposed rate increase but do not want or cannot testify at the Public Input Hearings, you may file a formal complaint or comment to the proposed acquisition. Please visit the PUC's website to use the applicable form available at <https://www.puc.pa.gov/complaints/formal-complaints/>.