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File #: 196374

January 28, 2025

***Via Electronic Filing***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**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**

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Dear Secretary Chiavetta:

Attached for filing is the Prehearing Conference Memorandum of Aqua Pennsylvania Wastewater, Inc. ("Aqua Wastewater") in the above-referenced proceeding.

Please direct any questions regarding the foregoing to the undersigned counsel.

Respectfully submitted,



Garret P. Lent

GPL/sa  
Attachments

cc: The Honorable F. Joseph Brady  
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

### VIA E-MAIL

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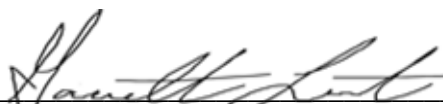
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### VIA FIRST-CLASS MAIL

Chris Perkins  
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Date: January 28, 2025

  
Garrett P. Lent

**BEFORE  
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**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

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**PREHEARING CONFERENCE MEMORANDUM OF  
AQUA PENNSYLVANIA WASTEWATER, INC.**

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**TO ADMINISTRATIVE LAW JUDGE F. JOSEPH BRADY:**

Pursuant to 52 Pa. Code § 5.224(c) and the Prehearing Conference Order dated January 14, 2025, issued by Administrative Law Judge F. Joseph Brady (the “ALJ”), Aqua Pennsylvania Wastewater, Inc. (“Aqua Wastewater” or the “Company”) hereby submits this Prehearing Conference Memorandum.

**I. SERVICE OF DOCUMENTS**

1. Aqua Wastewater requests that all documents be served on:

Michael W. Hassell, Esq. (ID # 34851)  
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Please be advised that Mr. Garrett P. Lent will speak as the lead attorney for Aqua Wastewater for purposes of the prehearing conference. However, other counsel for Aqua Wastewater will be participating and available during the telephonic prehearing conference as needed.

2. Aqua Wastewater agrees to receive service of documents electronically in this proceeding.

## **II. PROCEDURAL HISTORY**

3. This proceeding was initiated on February 17, 2023, when Aqua Wastewater filed the above-captioned Application with the Pennsylvania Public Utility Commission (“Commission”) requesting: (1) approval of the acquisition by Aqua Wastewater of the wastewater system assets (“Beaver Falls System”) of the City of Beaver Falls (the “City” or “Beaver Falls”); (2) the approval of the right of Aqua Wastewater to begin to offer, render, furnish and supply wastewater service to the public in the City; (3) that the Commission include in its order approving the acquisition, the ratemaking rate base of the City wastewater system assets as determined under §1329(c)(2) of the Public Utility Code, 66 Pa.C.S. §1329(c)(2); (4) that the Commission issue certificates for filing, pursuant to §507 of the Public Utility Code, 66 Pa.C.S. § 507, for certain municipal contracts that Aqua Wastewater included in the Application (to the extent necessary), including new service agreements that Aqua Wastewater will negotiate and enter into with Big Beaver Borough, West Mayfield Borough, White Township, North Sewickley Township, Eastvale Borough, Patterson Township, and Patterson Heights Borough (the “Contributing Municipalities”)

prior to Closing and which will replace any prior agreements; and (5) that the Commission allows certain existing agreements between Aqua Wastewater and the Contributing Municipalities to be modified because the agreements contain a rate formula that is inconsistent with the rates charged by the City to the Contributing Municipalities.

4. On March 17, 2023, Aqua Wastewater filed responses to certain data requests issued by the Commission's Bureau of Technical Utility Services ("TUS").

5. Also on March 17, 2023, the Office of Small Business Advocate ("OSBA") filed a Notice of Appearance, as well as a Notice of Intervention & Protest, Public Statement, and Verification.

6. Further, on March 17, 2023, Aqua Wastewater filed a request to extend the Commission's review period in this matter from March 21, 2023, to April 7, 2023.

7. On March 20, 2023, the Commission issued a Secretarial Letter granting Aqua Wastewater's March 17, 2023 request.

8. Also on March 20, 2023, the Commission's Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance.

9. On April 5, 2023, West Mayfield Borough, Patterson Heights Borough, Patterson Township, and White Township (collectively, "Municipal Protestants") filed Protests. In the Protests, Municipal Protestants asserted that they had jointly filed a Complaint with the Beaver County Court of Common Pleas against the City and Aqua Wastewater, asserting, *inter alia*, that Municipal Protestants had ownership rights to the Beaver Falls System and seeking to enjoin the sale of the Beaver Falls system to Aqua Wastewater.

10. The Municipal Protestants also filed a Joint Verified Letter Request to Reject Aqua Wastewater's Application as Incomplete or Hold in Abeyance and Request for Expedited Response on April 5, 2023.

11. Also on April 5, 2023, Aqua Wastewater filed a letter with the Commission requesting a time extension from April 7, 2023, to April 21, 2023, to provide certain information to the Commission.

12. On April 6, 2023, the Commission issued a Secretarial Letter granting Aqua Wastewater's April 5, 2023 request.

13. On April 11, 2023, Aqua Wastewater filed a Letter Response to the Joint Verified Letter Request of the Municipal Protestants.

14. On April 19, 2023, Aqua Wastewater filed a letter requesting the Commission extend its initial review period from April 21, 2023, to May 5, 2023.

15. On April 20, 2023, the Commission issued a Secretarial Letter granting Aqua Wastewater's April 19, 2023 extension request.

16. On April 27, 2023, the Office of Consumer Advocate ("OCA") filed a Protest and Public Statement.

17. On May 3, 2023, Aqua Wastewater filed a letter requesting the Commission extend its initial review period from May 5, 2023, to May 19, 2023.

18. On May 5, 2023, the Commission issued a Secretarial Letter granting Aqua Wastewater's May 3, 2023 extension request.

19. On May 18, 2023, Aqua Wastewater filed a letter requesting the Commission extend its initial review period from May 19, 2023, to June 2, 2023.

20. Also on May 18, 2023, Aqua Wastewater filed responses to requests of TUS for additional information.

21. On May 19, 2023, the Commission issued a Secretarial Letter granting Aqua Wastewater's May 18, 2023 extension request.

22. On June 20, 2023, the OSBA filed a Notice of Appearance and a Withdrawal of Appearance.

23. On June 27, 2023, Aqua Wastewater filed responses to requests of TUS for additional information.

24. On June 28, 2023, the Commission conditionally accepted the above-captioned application.

25. On February 13, 2024, the Municipal Protestants filed Notices of Withdrawal of Protest and Letters of Consent to Sale of the City of Beaver Falls Wastewater Collection and Treatment Systems to Aqua Wastewater.

26. On February 22, 2024, the OCA filed a Withdrawal of Appearance.

27. On March 28, 2024, Aqua Wastewater filed an Amended Application. In the Amended Application, Aqua Wastewater explained that the Municipal Protestants, the City and Aqua Wastewater had negotiated a settlement of the civil complaint proceeding. In that settlement, the Municipal Protestants agreed to withdraw their suit, agreed to withdraw their protests to this Application, and agreed to enter into a wastewater service agreement. The new wastewater service agreements and settlement were included in the Amended Application.

28. On April 4, 2024, the Commission issued a Secretarial Letter withdrawing the Commission's conditional acceptance of the Application.

29. On April 17, 2024, the OCA filed a Notice of Appearance.

30. On April 23, 2024, Aqua Wastewater filed a letter requesting the Commission extend its review period from April 24, 2024, to May 8, 2024.

31. On April 23, 2024, the Commission issued a Secretarial Letter granting Aqua Wastewater's April 23, 2024 extension request.

32. On May 7, 2024, Aqua Wastewater filed a letter requesting the Commission extend its review period from May 8, 2024, to May 15, 2024.

33. On May 8, 2024, the Commission issued a Secretarial Letter granting Aqua Wastewater's May 7, 2024 extension request.

34. On May 15, 2024, Aqua Wastewater filed responses to requests of TUS for additional information.

35. On June 7, 2024, Aqua Wastewater refiled certain information in response to the requests of TUS under CONFIDENTIAL cover.

36. On June 26, 2024, Aqua Wastewater filed additional information in response to the requests of TUS.

37. On June 27, 2024, the Commission issued a Secretarial Letter conditionally accepting the Amended Application, directing service of copies of the Amended Application upon certain entities and directing that individualized notice of the Amended Application be provided to Aqua Wastewater's customers and to water customers of Aqua Pennsylvania, Inc.

38. On July 2, 2024, the OCA filed a Withdrawal of Appearance.

39. On August 21, 2024, Aqua Wastewater filed a letter advising the Commission of its provision of individualized notice of the proposed acquisition to its water and wastewater customers. In addition, the letter noted that the City was concurrently providing individualized notice of the proposed acquisition to its wastewater customers.

40. On August 30, 2024, the OCA filed a Withdrawal of Appearance and Entry of Appearance.

41. On September 6, 2024, the OCA filed a Notice of Appearance.

42. On or around September 23, 2024, Chris Perkins filed a Protest to the Amended Application.

43. On or around October 11, 2024, Keith Gabage filed a Protest to the Amended Application.

44. On October 31, 2024, the OSBA filed a Notice of Appearance and Withdrawal of Appearance.

45. On December 23, 2024, Aqua Wastewater filed a Letter and Certificate of Service verifying service of the Amended Application upon the designated entities, the completion of individualized notice and a proof of publication.

46. Also on December 23, 2024, Aqua Wastewater filed additional direct testimony in support of the Amended Application.

47. On December 30, 2024, the Commission issued an Initial Telephonic Prehearing Conference Notice, scheduling a call-in telephonic prehearing conference for January 29, 2025, before the ALJ.

48. Also on December 30, 2024, the Commission issued a Secretarial Letter accepting Aqua Wastewater's filing of the Application.

49. On January 6, 2025, the City filed Notices of Appearance.

50. On January 14, 2025, the ALJ issued a Prehearing Conference Order directing, among other things, submission of a Prehearing Conference Memorandum on or before 12:00 p.m. on January 28, 2025.

51. On January 17, 2025, the City filed a Petition to Intervene.

52. Pursuant to 52 Pa. Code § 5.224(c) and the Prehearing Conference Order dated January 14, 2025, Aqua Wastewater hereby submits this Prehearing Conference Memorandum.

### **III. ISSUES**

53. Through the Application, Aqua Wastewater seeks Commission approval to, *inter alia*, acquire the assets, properties, and rights related to the Beaver Falls System owned by the City pursuant to 66 Pa. C.S. § 1329 (“Transaction”).

54. More specifically, through the Application, Aqua Wastewater is seeking: (1) Commission approval of the Transaction under Section 1102 of the Public Utility Code, 66 Pa.C.S. § 1102; (2) Commission approval to begin providing wastewater service in the requested territory; (3) Commission utilization of fair market value for the determination of the ratemaking rate base of the acquired assets in the Transaction, pursuant to Section 1329 of the Public Utility Code, 66 Pa.C.S. § 1329 ; (4) for the Commission to issue, to the extent necessary, certificates for filing, pursuant to Section 507 of the Public Utility Code, 66 Pa.C.S. § 507, for the Asset Purchase Agreement between Aqua Wastewater and the City, for new Wastewater Service Agreements with municipalities connected to the Beaver Falls System, for a charitable contribution agreement between Aqua Wastewater and the City, for a pro-forma meter read agreement between Aqua Wastewater and the Beaver Falls Municipal Authority (“BFMA”) and the settlement agreement with the Municipal Protestants.

55. As a part of the approvals sought in this matter, Aqua Wastewater intends to demonstrate that it possesses the requisite technical, regulatory, financial and legal fitness to

operate the Beaver Falls System, and to maintain the operations and make improvements to meet continuing and future customer needs.

56. Aqua Wastewater also intends to show that the proposed transaction will not have an adverse effect on the service Aqua Wastewater provides to its existing customers.

57. In addition, Aqua Wastewater will demonstrate that its acquisition of the Beaver Falls System is in the public interest. Specifically, Aqua Wastewater plans to show that the Beaver Falls System and its customers will benefit from Aqua Wastewater's operation of the Beaver Falls System, which will address regulatory requirements, and various operational and safety deficiencies, facing the Beaver Falls System and necessary capital expenditures required to comply with those requirements, correct deficiencies and improve the service provided over the current service provided by Beaver Falls. As described in the Amended Application and associated testimony, the acquisition will also benefit the Beaver Falls System through the recognized benefits of Aqua Wastewater's ownership including its expertise and ability to raise capital; the furtherance of consolidation/regionalization of wastewater services; repairs and process improvements to ensure safe operation of the Wastewater Treatment Plant ("WWTP"); adequate staffing at the WWTP; and the ability to spread costs over a larger customer base.

#### **IV. WITNESSES**

58. Aqua Wastewater presently intends to offer the following witnesses to testify in this proceeding on the following subject matters:<sup>1</sup>

| Statement No. | Witness           | Subjects Addressed      |
|---------------|-------------------|-------------------------|
| 1.            | William C. Packer | Overview of Transaction |

<sup>1</sup> Aqua Wastewater notes that the City's witnesses were marked as Aqua Wastewater's witnesses within the Amended Application. However, the City will introduce witnesses Charles R. Jones, Jr. (Statement No. 4), Harold Walker, III (Statement No. 6), Mayor Kenya Johns (Statement No. 7), and Sandra Wilkins (Statement No. 8) separately for the purposes of the evidentiary hearing in this matter.

| Statement No. | Witness  | Subjects Addressed  |
|---------------|--|---|
|               | Vice President Regulatory Accounting and<br>Regional Controller<br>Essential Utilities, Inc.<br>762 W. Lancaster Ave.<br>Bryn Mawr, PA 19010 | Financial and Legal Fitness of Aqua<br>APA Rate Provisions<br>Public Benefits of the Transaction<br>Section 1329<br>Section 507 |
| 2.            | Mark J. Bubel<br>Project Engineer II<br>Aqua Pennsylvania, Inc.<br>762 W. Lancaster Ave.<br>Bryn Mawr, PA 19010                              | Description of the System<br>Environmental Compliance   |
| 3.            | Zach Martin<br>West Pennsylvania Area Manager<br>Aqua Pennsylvania, Inc.<br>665 Dock Street<br>Sharon, Pa 16146                              | Operations<br>Customer Service<br>Public Benefits   |
| 5.            | Dylan W. D'Ascendis<br>Partner<br>ScottMadden, Inc.<br>3000 Atrium Way, Suite 200<br>Mount Laurel, NJ 08054                                  | Fair Market Value Appraisal   |

Aqua Wastewater previously filed copies of the witnesses' written direct testimony and exhibits, and certain written supplemental direct testimony which fully support the Transaction.

59. Aqua Wastewater also reserves the right to call and present additional witnesses to address any issues that may arise during the course of the proceeding.

## V. DISCOVERY

60. To date, Aqua Wastewater has received more than one-hundred discovery requests, many of which having multiple subparts from parties in this proceeding. The Company and the City have served responses to all outstanding discovery requests as of January 28, 2025.

61. Based on the litigation schedule to be adopted in this proceeding, and the Prehearing Order issued by the ALJ on January 14, 2025, Aqua Wastewater proposes the following modifications to the timelines for discovery set forth in the Commission's regulations and the January 14, 2025 Prehearing Order, beginning after the service of other parties' Direct Testimony:

- 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.

62. Aqua Wastewater also encourages the use of informal discovery to expedite the discovery process.

63. Aqua Wastewater further proposes that parties serving any testimony include with each piece of testimony the electronic workpapers, cited studies, and other documents relied on by the witness on the same date such testimony is served.

64. Finally, Aqua Wastewater has received discovery requests that seek information that the Company believes is confidential and proprietary. As such, Aqua Wastewater anticipates filing a Motion for Protective Order, which establishes the terms and conditions upon which parties may be provided access to, and use, confidential and proprietary information in this proceeding.

## **VI. LITIGATION SCHEDULE**

65. Aqua Wastewater is continuing to work with the parties to establish a mutually agreeable schedule. At this time, the Company proposes the following schedule:

|  |  |
|--|--|
| Prehearing Conference  | January 29, 2025                         |
| Other Parties' Direct Testimony  | February 19, 2025                        |
| Rebuttal Testimony   | March 28, 2025                           |
| Surrebuttal Testimony and Responsive Testimony to any Public Input Hearing Testimony | March 7, 2025                            |
| Written Rejoinder  | March 11, 2025                           |
| Telephonic Evidentiary Hearings (9:00 a.m. start each day)                           | March 13 and March 18, 2025 <sup>2</sup> |
| Main Briefs  | March 26, 2025                           |
| Reply Briefs   | April 4, 2025                            |

Aqua Wastewater is also willing to work with the parties to accommodate potential scheduling conflicts for the parties' witnesses to attend and testify at the evidentiary hearings.

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<sup>2</sup> The March 18, 2025, hearing date would solely be to accommodate the schedule of Aqua Wastewater witness Dylan D'Ascendis. All other witnesses would be subject to cross-examination on March 13, 2025.

**VII. PUBLIC INPUT HEARINGS**

66. Aqua Wastewater is not opposed to a public input hearing being held, provided the same is scheduled sufficiently in advance of the due date for parties' surrebuttal testimony such that public input testimony can be incorporated into the parties' surrebuttal testimony. Aqua Wastewater proposes that two days of public input hearings be held, with a total of two telephonic public input hearings held on one day, and two (2) held in person in the City of Beaver Falls on the other day.

**VIII. SETTLEMENT**

67. As of this time, initial settlement discussions have been held. Aqua Wastewater remains open and available for settlement discussions with the other parties.

Respectfully submitted,



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Dated: January 28, 2025

*Counsel for Aqua Pennsylvania Wastewater,  
Inc.*