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January 28, 2025

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 Prehearing Memorandum of City of Beaver Falls, in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

Thank you for your kind attention to the above and attached.

Sincerely yours,
/s/ James J. Rodgers
James Rodgers

JJR:vh
Enclosures

cc: Honorable F. Joseph Brady (*via email, fbrady@pa.gov*)
Ms. Pam McNeal (*via email, pmcneal@pa.gov*)
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania Wastewater, Inc. (hereinafter referred to as “Aqua” or “Applicant”) pursuant to Sections 1102 and 1329 of the Public Utility Code for:

- (1) Approval of the acquisition by Aqua of the wastewater system assets of the City of Beaver Falls (“Beaver Falls” or “City”) situated within the City of Beaver Falls Eastvale Borough, and West Mayfield Borough, Beaver County, Pennsylvania**
- (2) Approval of the right of Aqua to begin to offer, render, furnish and supply wastewater service to the public in the City of Beaver Falls, Beaver County, Pennsylvania; and**
- (3) An order approving the acquisition that includes the ratemaking rate base of the City of Beaver Falls wastewater system assets pursuant to Section 1329(c)(2) of the Public Utility Code.**

Docket No. A-2022-3033138

Request for Approval of Contracts, between Aqua and the City of Beaver Falls, Pursuant to Section 507 of the Public Utility Code

PREHEARING MEMORANDUM OF CITY OF BEAVER FALLS IN SUPPORT OF APPLICATION OF AQUA PENNSYLVANIA WASTEWATER, INC. FOR APPROVAL OF ACQUISITION OF BEAVER FALLS’ WASTEWATER ASSETS PURSUANT TO 66 PA.C.S. §§ 507, 508, 1102, 1329

Intervenor City of Beaver Falls (“Beaver Falls”), by and through its counsel, Dilworth Paxson, LLP, submits its Prehearing Memorandum in Support of Aqua Pennsylvania Wastewater, Inc. (“APW” or “Applicant”)’s Amended Application (“the APW Application”) pursuant to the

January 14, 2025 Order of Honorable F. Joseph Brady in connection with the Prehearing Conference scheduled for January 29, 2025.

I. HISTORY OF THE PROCEEDING

The APW Application was filed on February 17, 2023 and was amended on March 28, 2024. The proposed transaction had been under consideration for a substantial period of time. The Asset Purchase Agreement was executed on October 20, 2021. The APW Application seeks:

- a. The issuance of a Certificate of Public Convenience under § 1102 of the Pennsylvania Public Utility Code:
 - a. Authorizing Aqua to acquire, by purchase, the wastewater system assets of Beaver Falls; and
 - b. Authorizing Aqua to begin to off, render, furnish, and supply wastewater service to the public in the Requested Territory covered by the APW Application.
- b. The authorization of Aqua to file tariff revisions, effective upon one day's notice to:
 - a. Include within its territory all the Requested Territory covered by the APW Application;
 - b. Adopt and apply Beaver Falls' rates as set forth in the APW Application as Aqua's Base Rates within the Requested Territory; and
 - c. Apply Aqua's *Rules and Regulations* within the Requested Territory.
- c. The entry of an Order approving the APW Application and Aqua's acquisition of the Acquired Assets, including the ratemaking rate base of Beaver Falls as \$41,250,000.00 pursuant to Section 1329(c)(2) of the Public Utility Code;
- d. The approval of Contracts, including the New Wastewater Service Agreements entered into by Aqua, Patterson Heights Borough, Patterson Township, West Mayfield Borough, and White Township, the charitable contribution agreement between Aqua and Beaver

Falls, the pro forma meter read agreement between Aqua and the BFMA, and the Settlement Agreement entered into by Aqua, Beaver Falls, Patterson Heights Borough, Patterson Township, West Mayfield Borough, and White Township pursuant to Section 507 of the Public Utility Code; and

- e. The issuance of such other approvals, certificates, registrations, and relief, if any, under the Public Utility Code that may be required with respect to Aqua's acquisition of Beaver Falls' wastewater system assets.

The APW Application with exhibits was served upon each city, borough, town, township, county and related planning office which is included, in whole or in part, in the requested service territory, a wastewater utility, municipal corporation or authority which provides wastewater collection to the public and whose service area abuts the service area proposed in the application, the statutory advocates, and Pennsylvania Department of Environmental Protection's ("DEP") central and regional offices. The Office of Consumer Advocate ("OCA") has engaged in somewhat extensive discovery of APW and Beaver Falls.

The Office of Small Business Advocate ("OSBA") filed a Notice of Intervention and Protest on March 17, 2023. The Commission's Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance on March 20, 2023. Patterson Heights Borough, Patterson Township, West Mayfield Borough, and White Township filed Protests and a Joint Verified Letter Request to Reject Application as Incomplete on April 5, 2023, which Protests were withdrawn on February 14, 2024. The OCA filed a Notice of Intervention and Protest on April 28, 2023. DuBois, Pennsylvania resident Chris Perkins filed a Protest on September 23, 2024. West Chester, Pennsylvania resident Keith Gabage filed a Protest on October 10, 2024. Additionally, the PUC is in receipt of documentation of individual opposition to the approval of the APW Application via

public comment. The stated protests and objections to the approval of the APW Application have raised issue of fact that require determination before the APW Application can be approved.

II. ISSUES TO BE PRESENTED AT HEARING

Beaver Falls's position is that the acquisition is in the public interest because of the history and condition of its wastewater system (which serves not only Beaver Falls and its residents, but also neighboring communities, pursuant to a long-standing cooperative arrangement) and its related assets. Beaver Falls cannot continue to operate the system without likely significant degradation and/or significant investment which is beyond its financial ability. Beaver Falls has relied on the agreement at issue since it was executed and has taken material actions with respect to taxes and financing. From a fiscal standpoint, Beaver Falls has no satisfactory alternative options, moreover, the condition of the system will require capital investment which it may NOT be able to obtain at reasonable cost to make essential upgrades. Beaver Falls has been unable to retain or recruit qualified personnel to operate and maintain the system and expects that situation to continue. While Beaver Falls recognizes that the proposed acquisition is likely to result in substantial rate increases for the affected consumers over time, that effect is more than offset by the critical and immediate need to invest in physical plant facilities and personnel.

III. BEAVER FALLS'S PROPOSED WITNESSES AND THEIR SUBJECTS OF TESTIMONY

1. Witness: Charles R. Jones, Jr., 715 Fifteenth Street, Beaver Falls, PA15010.

Mr. Jones is the Beaver Falls City Manager. He will describe the Beaver Falls wastewater system, as well as explain the background of Beaver Falls's provision of wastewater services to customers located in the Requested Territory, and the benefits to those customers from the proposed acquisition of the Beaver Falls assets by APW.

2. Witness: Mayor Kenya Johns, 715 Fifteenth Street, Beaver Falls, PA 15010.

Dr. Johns was elected Beaver Falls City Mayor in 2022. Dr. Johns will supplement the testimony provided by the City Manager, Mr. Charles Jones. Dr. Johns will explain why she supports the sale and why she believes it is in the best interest of the public to approve the sale.

3. Witness: Sandy Wilkins, 715 Fifteenth Street, Beaver Falls, PA 15010.

Ms. Wilkins is the Chief Financial Officer (CFO) of Beaver Falls City. Ms. Wilkins will supplement the testimony provided by the City Manager, Mr. Charles Jones and the testimony provided by the Mayor, Dr. Kenya Johns. Ms. Wilkins will concentrate her testimony on Beaver Falls' financial situation and the financial consequences of not approving the sale. Ms. Wilkins will provide a financial analysis demonstrating how the sale is in the best interest of the public.

4. Witness: Harold Walker, III, 1010 Adams Avenue, Audubon, PA 19403.

Mr. Walker is a Manger, Financial Studies of Gannet Fleming Valuation and Rate Consultants, LLC. Mr. Walker will provide testimony regarding the Utility Valuation Expert Appraisal provided in the APW Application.

The City reserves the right to call and present additional witnesses to address any issues that may arise during the course of the proceeding.

IV. SCHEDULING

Beaver Falls understands that Beaver Falls, APW, I&E, OCA and OSBA have discussed the following schedule:

<u>Item</u>	<u>Deadline</u>
Other Parties Direct Testimony	February 19, 2025
Rebuttal Testimony	February 28, 2025
Surrebuttal Testimony	March 7, 2025
Written Rejoinder	March 11, 2025
Telephonic Evidentiary Hearings (9 a.m. start)	March 13, 2025 and March 18, 2025
Main Briefs	March 26, 2025
Reply Briefs / Submission of Joint Settlement Petition	April 4, 2025

V. SETTLEMENT

Beaver Falls remains open and available for settlement discussions with the other parties.

Dated: January 28, 2025

/s/ James J. Rodgers _____

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*Attorneys for Intervenor,
City of Beaver Falls*

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing **Prehearing Memorandum of the City of Beaver Falls** upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

VIA EMAIL ONLY

The Honorable F. Joseph Brady
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VIA FIRST-CLASS MAIL ONLY

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Date: January 28, 2025

/s/ James J. Rodger

James J. Rodgers, Esquire