

February 20, 2025

**Via Electronic Filing**

Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket Nos. C-2022-3036893 and C-2022-3037118  
SCH USA, LLC v. Aqua Pennsylvania Wastewater, Inc.  
Motion for Official Notice**

Dear Secretary Chiavetta:

Attached for filing is the Motion of Aqua Pennsylvania Wastewater, Inc. to take official notice of Docket Nos. R-2024-3047822, *et al.* into consideration in the above-referenced proceeding.

A copy of the attached Motion has been provided to the relevant parties in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co  
Enclosures

cc: The Hon. John Coogan, PA Public Utility Commission [w/encl.]  
Heather S. D. Harrison, Aqua Pennsylvania, Inc. [w/encl.]  
Service List [w/encl.]

**Re: Docket Nos. C-2022-3036893 and C-2022-3037118  
SCH USA, LLC v. Aqua Pennsylvania Wastewater, Inc.  
Motion for Official Notice**

**CERTIFICATE OF SERVICE**

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

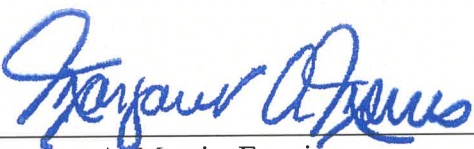
**Via Electronic Mail**

Carl R. Shultz, Esquire  
[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)

Lauren M. Burge, Esquire  
[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)

Bryce R. Beard, Esquire  
[bbeard@eckertseamans.com](mailto:bbeard@eckertseamans.com)

Dated: February 20, 2025

  
\_\_\_\_\_  
Margaret A. Morris, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCH USA, LLC :  
 :  
 : Docket No. C-2022-3036893  
 v. :  
 : Docket No. C-2022-3037118  
 :  
 :  
 AQUA PENNSYLVANIA WASTEWATER, INC. :

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §§ 332(e), 5.103 and 5.408, you are hereby notified that if you do not file a written response to the enclosed Motion of Aqua Pennsylvania Wastewater, Inc. for Official Notice, **within twenty (20) days** from service of this Notice, the facts set forth by Aqua Pennsylvania Wastewater, Inc. in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as an Answer to the Motion for Official Notice, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Aqua Pennsylvania Wastewater, Inc., Margaret A. Morris, Esq., and the Honorable John M. Coogan presiding over this proceeding.

**File by Mail or e-filing with:**

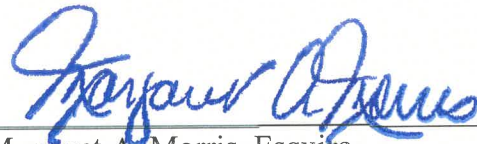
Rosemary Chiavetta, Esquire  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

Margaret A. Morris, Esquire  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Date: February 20, 2025

The Hon. John M. Coogan  
[jcoogan@pa.gov](mailto:jcoogan@pa.gov)



Margaret A. Morris, Esquire  
Attorney ID No. 75048  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 (tel.)  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Aqua Pennsylvania Wastewater, Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SCH USA, LLC	:	
	:	Docket Nos.: C-2022-3036893
v.	:	C-2022-3037118
	:	
AQUA PENNSYLVANIA	:	
WASTEWATER, INC.	:	

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**MOTION OF AQUA PENNSYLVANIA WASTEWATER, INC.  
FOR OFFICIAL NOTICE OF THE 2024 RATE DOCKET**

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**TO THE HONORABLE JOHN COOGAN:**

Aqua Pennsylvania Wastewater, Inc. (“Aqua” or the “Company”) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to Section 332(e) of the Public Utility Code, 66 Pa.C.S. § 332(e), and Sections 5.103 and 5.408 of the Commission’s regulations, 52 Pa. Code §§ 5.103 and 5.408, moves that the Honorable John Coogan (“Judge Coogan”) take official notice of Docket Nos. R-2024-3047822, *et al.* and specifically the *Opinion and Order* entered February 7, 2025 (“2024 Rate Order”) which addresses the same issues raised in the present proceeding. In support thereof, Aqua avers as follows:

**I. RELEVANT PROCEDURAL HISTORY**

1. On November 21, 2022, Aqua was served with a Formal Complaint filed by SCH USA, LLC (“Complainant” or “SCH”) at Docket No. C-2022-3036893 which, *inter alia*, alleged that the methodology used by Aqua to bill three identified accounts under its Wastewater Tariff, as applied to the Complainant, was unreasonable arguing that the assigned Equivalent Dwelling

Unit (“EDU”) for each of the three disputed accounts was unreasonable based on its occupancy level.<sup>1</sup>

2. On December 12, 2022, Aqua filed its Answer and New Matter contending that the three disputed accounts were properly billed consistent with the Commission-approved Rate Zone 4 Tariff.

3. The record in this proceeding consists of the party’s respective written testimony and proposed exhibits; both parties waived cross-examination.

4. On January 9, 2025, the parties filed their respective Main Briefs.

5. On January 29, 2025, the parties filed their respective Reply Brief.

6. On February 7, 2025, the Commission entered the *2024 Rate Order* which, *inter alia*, denied the Exceptions of SCH regarding the same issues raised in the present proceeding.

## **II. OFFICIAL NOTICE OF THE 2024 RATE ORDER**

7. A party may make a request by motion for relief desired in writing at any time. 52 Pa. Code § 5.103.

8. In *Nolan v. Pa. Power & Light Company*, Docket No. C-00956756, 1996 Pa. PUC LEXIS 127 (Order entered October 10, 1996), the Commission noted that administrative law judges may notice facts under 66 Pa.C.S. § 332(e).

9. In addition, 52 Pa. Code § 5.408(a) of the Commission’s regulations states:

(a) *Official notice or judicial notice of facts may be taken by the Commission or the presiding officer.*

10. Presiding officers have, on numerous occasions, taken official notice of facts not otherwise in the record when rendering decisions. *Titus Wright v. Philadelphia Gas Works*, 2014 WL 5424278 Pa.P.U.C. October 23, 2014 (Docket No. C-2013- 2368462); *Pa. P. U. C., Law*

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<sup>1</sup> The Formal Complaint at Docket No. C-2022-3036893 regarding the Laundry Account is no longer in dispute.

*Bureau Prosecutory Staff v. Columbia Gas of PA, Inc.*, 2009 WL 2913676 Pa PUC 2009 Docket No. C-20077249 (Order entered September 4, 2009).

11. The *2024 Rate Order* summarized the following issues raised by SCH, which are the identical issues in the present Complaint proceeding:

- a. Aqua's **current** wastewater tariff results in unjust and unreasonable rates being charged to SCH because the Kidder Settlement, which stipulates the number of EDUs associated with the Resort Accounts, does not provide an accurate basis for billing. *2024 Rate Order* at p. 159;
- b. The number of EDUs that the Company is **currently** billing to the Resort Accounts do not have any relationship to the flows that are coming from the properties. *2024 Rate Order* at p. 159;
- c. The **existing** EDU-based billing by Aqua is unreasonable as applied to SCH's own situation. *2024 Rate Order* at p. 159.
- d. Aqua should bill based on actual metered usage, as opposed to flat rate billing. *2024 Rate Order* at p. 154.

12. The *2024 Rate Order* makes the following determinations:

- a. Since the Company's acquisition of the Kidder Township wastewater assets, the Commission has reviewed the EDUs billed to SCH's accounts as part of Aqua's previous two base rate proceedings in 2018 and 2021, which were included in the revenue requirements as set forth in the respective Commission Orders in both the *Aqua 2018 Rate Case* and the *Aqua 2021 Rate Case*. The Commission approved those rates through the Compliance Tariffs filed in the referenced dockets and those rates were determined by the Commission to be just and reasonable. *2024 Rate Order* at p. 160.
- b. SCH is requesting different billing than what has been authorized by the Commission when the Company acquired the system, and more recently in the *Aqua 2021 Rate Case*. *2024 Rate Order* at pp. 160-161.
- c. SCH is operating the same type of business that has always been at this location – *i.e.*, a combination of hotels, restaurants, *etc.* There has been no significant change in the nature of the original wastewater usage at the location, and therefore no change to the assigned EDUs would be warranted. *2024 Rate Order* at p. 161.
- d. Absent actual use data for the Resort Accounts, the practice of using a surrogate to actual measures (*i.e.*, the EDU) is a reasonable practice. SCH offered no evidence to tie actual use to the costs Aqua incurs to provide

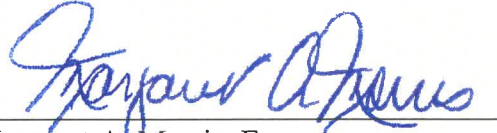
wastewater service, nor any evidence regarding its actual occupancy rate. SCH thus failed to meet its burden of proof. *2024 Rate Order* at p. 163.

- e. In response to SCH four proposed alternatives, SCH has failed to meet its burden to prove that any option is actually viable as it pertains to the Resort Accounts. *2024 Rate Order* at p. 163.
- f. SCHs proposal to measure the wastewater usage for the Resort Accounts using ultrasonic flowmeters and electromagnetic flowmeters is unsupported. *2024 Rate Order* at pp. 163-164.
- g. SCH proposed alternatives of either adjusting SCH's EDUs used for billing purposes to better reflect actual usage and occupancy or assigning some other proxy that more accurately reflects actual usage and occupancy would result in rates that violate the Code. *2024 Rate Order* at p. 166.
- h. The billing alternatives proposed by SCH are not feasible and cannot be implemented. *2024 Rate Order* at p. 167.

13. Despite the fact that the *2024 Rate Order* is entered in a docket separate from this proceeding, the matters are interrelated and raise common issues of law in fact and, therefore, reliance upon the Commission's rulings in the *2024 Rate Order* is appropriate. In fact, it would be inappropriate to ignore the *2024 Rate Order* since it provides the Commission's determination on the same issues raised by the same party in this proceeding.

**WHEREFORE**, Aqua Pennsylvania Wastewater, Inc. respectfully requests that the Honorable John Coogan take judicial notice of the 2024 Rate Order and consider the Commission's ruling on the same issues raised in the present proceeding in the disposition of the Formal Complaint filed by SCH USA LLC.

Respectfully submitted,



Date: February 20, 2025

Margaret A. Morris, Esq.  
Attorney ID No. 75048  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Aqua Pennsylvania Wastewater, Inc.*