William E. Ferguson
313 Hyde Park Road
Landenberg, PA 19350
(610) 268-5731

May 9, 2025

Via Electronic Filing

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: William Ferguson v. Aqua Pennsylvania Wastewater, Inc.
Docket Nos. C-2023-3043108 & C-2023-3043109
Motion to Strike Certain Portions of the Reply Exceptions of Aqua Pennsylvania Wastewater

Dear Secretary Homsher:

Enclosed for electronic filing, please find the **Motion to Strike Certain Portions of the Reply Exceptions of Aqua Pennsylvania Wastewater** in the above-referenced proceeding. Copies have been served in accordance with the Certificate of Service.

Please contact me if you have any questions about this filing.

Sincerely yours,

/s/ William Ferguson

William E. Ferguson

cc: Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

William Ferguson, Complainant	:	
v.	:	Docket Nos. C-2023-3043108 & C-2023-3043109
Aqua Pennsylvania Wastewater, Inc., Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion of William Ferguson, in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Served via Electronic Mail:

Honorable Eranda Vero
Administrative Law Judge
E-mail: evero@pa.gov

Michael W. Hassell, Esq.
Garrett P. Lent, Esq.
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
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Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
http://www/puc.state.pa.us/efiling/default.aspx

Office of Special Assistants
Pennsylvania Public Utility Commission
ra-OSA@pa.gov

/s/ William Ferguson

William E. Ferguson
313 Hyde Park Road
Landenberg, PA 19350
zzzferg@gmail.com
(610) 268-5731

Dated: May 9, 2025

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

William Ferguson, Complainant	:	
v.	:	Docket Nos. C-2023-3043108 & C-2023-3043109
Aqua Pennsylvania Wastewater, Inc., Respondent	:	

NOTICE TO PLEAD

TO: Michael W. Hassell, Esq.
Garrett P. Lent, Esq.
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
E-mail: mhassell@postschell.com
E-mail: glent@postschell.com

Pursuant to Pennsylvania Public Utility Commission Rule of Administrative Practice and Procedure § 5.65 (relating to answers to amendments of pleadings), 52 Pa. Code § 5.65, you are hereby notified **that you have twenty (20) days from the date you receive the attached Motion to Strike of William Ferguson** to file a written response with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17120.

If you fail to file a written response within twenty (20) days from your receipt of it, it may be decided without further notice to you.

As a formal party to the proceeding, you may represent yourself or you may be represented at your expense by an attorney-at-law of your choosing.

If you have any questions about this Notice, you may call the Secretary of the Pennsylvania Public Utility Commission at (717) 772-7777.

_____
William E. Ferguson
313 Hyde Park Road
Landenberg, PA 19350
zzzferg@gmail.com
(610) 268-5731

Dated: May 9, 2025

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

William Ferguson,	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2023-3043108
	:	C-2023-3043109
	:	
Aqua Pennsylvania Wastewater,	:	
Respondent	:	

Motion to Strike Certain Portions
of the Reply Exceptions of Aqua Pennsylvania Wastewater

Pursuant to Section 5.103 (relating to motions) of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.103, Complainant William Ferguson ("Ferguson") submits this Motion to Strike Certain Portions of the Reply Exceptions of Respondent Aqua Pennsylvania Wastewater ("Aqua"), and in support thereof states as follows:

1. This motion and a Petition to Reopen the Record for the Purpose of Taking Additional Evidence pursuant to 52 Pa. Code § 5.571 (relating to reopening prior to a final decision) are being filed simultaneously. Normally, this motion would be directed for disposition to the presiding Administrative Law Judge, and the petition to reopen would be directed for disposition to the Commission under 52 Pa. Code § 5.571(d)(2) ("The Commission may reopen the record after the presiding officer has issued a decision or certified the record to the Commission."). Because the Administrative Law Judge has already issued an Initial Decision ("ID"), both pleadings are directed to the Commission.

2. The ID dismissed Ferguson's two complaints by finding that he had not carried his burden of proof as a matter of law, without addressing or deciding his claims on their merits

and without considering or even mentioning Public Utility Code Section 1309(a), 66 Pa.C.S. §1309(a) (relating to rates fixed on complaint; investigation of costs of production; general rule) ("Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the existing rates of any public utility for any service are unjust, unreasonable, or in anywise in violation of any provision of law, the commission shall determine the just and reasonable rates … to be thereafter observed and in force….") or Section 315(b), 66 Pa.C.S. § 315(b) (relating to burden of proof; compliance with commission determinations and orders) ("In any case involving any alleged violation by a public utility … of any lawful determination or order of the commission, the burden of proof shall be upon the public utility … to show that the determination or order of the commission has been complied with."). Both sections are vital to the disposition of Ferguson's complaints.

3. A *pro se* complainant is not expected or required when filing a formal complaint under Section 701, 66 Pa.C.S. § 701: to cite the Public Utility Code section on which the complaint is filed or the burden of proof required to prevail; or to cite the Code section authorizing appropriate relief or the specific method or means of making aggrieved customers whole.

4. As noted, Section 1309(a) expressly authorizes formal complaints "upon its own motion or upon complaint" regarding "the existing rates of any public utility for any service." After notice and hearing, if the Commission finds such rates "are unjust, unreasonable, or is anywise in violation of any provision of law, the commission shall determine the just and reasonable rates ... to be thereafter observed upon the public utility...."

5. Ferguson's complaints challenged the justness, reasonableness, and lawfulness of Aqua's *existing* rates, those that resulted from its 2021 rate case, which were in effect from

the entry date of the Commission's Opinion and Order on May 19, 2022, until the effective date of Aqua's 2024 rate case, February 22, 2025 (a period of two years and nine months, during which time the customers of Aqua's New Garden Township division paid $3.3 million due to Aqua's nonexistent truck expense). He also challenged Aqua's "Billing Adjustments" in its Compliance Tariff, which raised customers' per-gallon charge by recovering the Commission-approved revenue increase over 106 million gallons rather than the 124 million that Aqua's "Consumption Analysis" indicated would be consumed. This had the additional effect of not only improperly raising individual customers' bills, but also of collecting more revenue than permitted by the Commission.

6. Section 1309(a) provides *prospective* rate relief, but Section 1312(a) also provides *refund* relief "in any proceeding involving rates" if any rate "was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility…." Ferguson's specific allegations fell within the scope of both sections.

7. Given the explicit authorizations contained in Sections 1309(a) and 1312(a) and Ferguson's substantive allegations that coincided with each section's requirements, Aqua's defenses invoking the *prima facie* reasonableness of Commission-approved rates, the rule against retroactive ratemaking, and the prohibition against single-issue ratemaking, together with Aqua's objections to Ferguson's request for relief, including refunds if a Commission investigation finds them appropriate, were and are inapt and irrelevant to this case.

8. Consequently, for these reasons and the reasons further explained in Ferguson's Exceptions, portions of Aqua's Reply Exceptions should be stricken and excluded from consideration of the merits of Ferguson's complaints.

9. Ferguson incorporates herein by reference the entirety of his Petition to Reopen the Record for the Purpose of Taking Additional Evidence filed simultaneously herewith.

WHEREFORE, Ferguson respectfully requests that the Commission strike and exclude from consideration the portions of Aqua's Reply Exceptions appearing in Parts II(A), (B), (C), and (D) on pages 2-13, which reply to Ferguson's Exception Numbers 1-3.

Respectfully submitted,

/s/ William Ferguson

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Date: May 9, 2025