

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 1102 and 1329 of the Public Utility Code, for Approval of the Acquisition by Aqua of the Wastewater System Assets of the City of Beaver Falls Situated within the City of Beaver Falls Eastvale Borough, and West Mayfield Borough, Beaver County, Pennsylvania

**Public Meeting held June 18, 2025
Docket No. A-2022-3033138
3033138-OSA**

STATEMENT OF COMMISSIONER KATHRYN L. ZERFUSS

The Commission is making a determination today on Aqua Pennsylvania Wastewater, Inc.'s (Aqua's) application requesting Commission approval to acquire the City of Beaver Falls' (Beaver Falls') wastewater system. Aqua's application was amended by a Joint Petition for Non-Unanimous Settlement of All Issues (Settlement) filed by Aqua, Beaver Falls, the Commission's Bureau of Investigation and Enforcement, and the Office of Consumer Advocate. Under the specific factual circumstances in this case, I find that the Settlement is in the public interest and that Aqua has satisfied its burden of demonstrating that acquiring Beaver Falls will affirmatively promote the service, accommodation, convenience, or safety of the public.

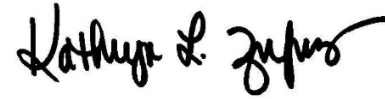
I support the goals of regionalization and believe that the acquisition of smaller systems by larger systems under Section 1329 of the Public Utility Code may improve the long-term viability of the water and wastewater industry. Nevertheless, I emphasize that we must carefully evaluate each Section 1329 proceeding on a case-by-case basis. In conducting this careful evaluation, the Commission's obligation is to review the evidence before us and decide whether Aqua has satisfied its burden of proving that there are substantial affirmative public benefits of this proposed acquisition that outweigh the acknowledged harms resulting from this acquisition. *See Cicero v. Pa. PUC*, 300 A.3d 1106 (Pa. Cmwlth. 2023). The Court explained that where known harms result from the transaction, the acquisition must provide benefits that *differ substantially* from the benefits already being provided by the existing system operator. Providing the same services that are already being provided, or providing upgrades that the existing system operator is capable of providing, are not substantial affirmative benefits, especially if the existing system is already operating safely and reliably. *Id.* at 1118. Based on my evaluation of the record and the settlement provisions in this case, I find that Aqua has demonstrated that its acquisition of Beaver Falls will result in it providing services that differ substantially from, and are not currently being provided, by Beaver Falls.

The Parties to the Settlement have taken steps to minimize the impact of a rate increase on the acquired customers and Aqua's current customers. The Parties agreed to a ratemaking rate base of \$29,900,000 under the Settlement, much lower than the as-filed ratemaking rate base of \$41,250,000 and the negotiated purchase price of \$37,750,000. Settlement, ¶ 39. The Settlement also provides for a rate gradualism plan for Beaver Falls' residential customers. In Aqua's first base rate case that includes the acquired assets, Aqua will propose a rate increase for Beaver Falls' customers not to exceed an average bill of \$168 per quarter, or \$56.00 per month at 3,161 gallons. Settlement, ¶ 44.¹ The Settlement also includes various public interest provisions that should be approved, including Aqua's commitment to do the following: (1) contribute an additional \$100,000 to its Hardship Fund over a three-year period or its next base rate case; (2) send a letter to Beaver Falls customers with information regarding the low-income programs Aqua offers and how to access and enroll in those programs, if eligible; and (3) track Beaver Falls customers potentially eligible to enroll, or who are enrolled, in the Company's CAP and present a breakdown of CAP enrollment data pertaining to Beaver Falls customers in its next base rate case. Settlement, ¶¶ 48-51. While I would prefer that the settling parties include higher Hardship Fund contributions and payment arrangement plans or other benefits for small businesses in their agreements, I find that the above settlement provisions are among the substantial affirmative public benefits in this case.

The transaction will also resolve significant safety, operational, and security deficiencies with the Beaver Falls system, including lack of licensed operators; lack of safety and security equipment and training; hazardous chemical storage, labeling, and safety concerns; compliance with Federal Environmental Protection Agency Risk Management Program regulations for extremely hazardous chemicals; ventilation issues creating health and safety risks for employees; inadequate Supervisory Control and Data Acquisition (SCADA) and operator alarm systems; and insufficient emergency/standby power generation. Aqua St. 3 Supp. at 12-39. In addition to these safety concerns, the transaction addresses environmental deficiencies within the Beaver Falls system. Most notably, the record identifies problems with Beaver Falls' treatment process that present a health risk to the downstream public water system and users in the Beaver and Ohio River valleys. Beaver Falls' system has experienced total suspended solids (TSS) effluent violations in December 2022, and February and March 2023, and a fecal coliform violation in June 2023. In 2024, the Pennsylvania Department of Environmental Protection issued a notice of violation to Beaver Falls for violations of its National Pollutant Discharge Elimination System permit, including TSS violations in October and November 2023 and April and May 2024, a fecal coliform violation in April 2024, and a pH violation in January 2024. Aqua St. 2-R at 4-5. Aqua has the financial and technical ability to spend approximately \$10.2 million to make the necessary improvements to the acquired system, which will include numerous system upgrades, improved physical and cybersecurity protections, and enhanced customer service offerings.

¹ The current average bill for Beaver Falls' residential customers is \$100.13 per quarter or \$33.00 per month at 3,161 gallons. This estimated monthly bill is lower than the tariffed wastewater rates for major Pennsylvania regulated wastewater utilities. See Aqua St. 1-R at 5; see also *Application of Aqua Pennsylvania Wastewater, Inc. under Sections 1102, 1329, and 507 of the Public Utility Code for Approval of the Acquisition of the Wastewater System Assets of the Greenville Sanitary Authority*, Docket No. A-2023-3041659 (Opinion and Order entered December 20, 2024).

On balance based on the specific factual record in this case, I conclude that Aqua has satisfied its burden of demonstrating that the substantial affirmative public benefits outweigh the harms of this transaction. For these reasons, I will be voting in favor of the acquisition, as amended by the settlement.

A handwritten signature in black ink, reading "Kathryn L. Zarfuss". The signature is written in a cursive style with a large initial 'K' and a long, sweeping tail on the 's'.

DATE: June 18, 2025

Kathryn L. Zarfuss, Commissioner