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July 25, 2025

Via Electronic Filing

Matthew L. Homsher Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Homsher:

Enclosed for electronic filing please find SCH USA, LLC's Petition for Reconsideration, in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Lauren M. Burge

Lauren M. Burge

Enclosure

cc: Hon. John Coogan w/enc.
Cert. of Service w/enc.
Ra-OSA@pa.gov w/enc

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of SCH USA, LLC's Petition for Reconsideration upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: July 25, 2025

Lauren M. Burge

Lauren M. Burge, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SCH USA, LLC	:	
	:	Docket Nos. C-2022-3036893
v.	:	C-2022-3037118
	:	
Aqua Pennsylvania Wastewater, Inc.	:	

**PETITION FOR RECONSIDERATION
OF SCH USA LLC**

I. INTRODUCTION

Pursuant to Section 703 of the Public Utility Code¹ and Section 5.572 of the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) regulations,² SCH USA LLC (“SCH USA”) files this Petition for Reconsideration of the Opinion and Order entered on July 10, 2025 (“Order”) in the above captioned proceeding.

SCH USA is not being charged for an accurate and reasonable number of equivalent dwelling units (“EDUs”). Aqua’s tariff uses EDUs as a proxy for actual measurements of either wastewater from SCH USA or water being used by SCH USA. Aqua charges a flat rate for each EDU, which is defined in Aqua’s tariff. Importantly, Aqua’s definition incorporates that formula in 25 Pa. Code § 73.17 to determine an accurate number of EDUs.

Aqua is charging SCH USA for 330 EDUs. That number of EDUs is not supported by Aqua’s definition or the formula in 25 Pa. Code § 73.17. SCH USA presented evidence showing that the number of EDUs calculated under Section 73.17 is far less than the 330 EDUs being

¹ 66 Pa. C.S. § 703.

² 52 Pa. Code § 5.572.

charged by Aqua. Aqua did not present any calculations under Section 73.17. Yet the Commission agreed with Aqua. In doing so, the Commission has overlooked various aspects of SCH USA's arguments; in particular, the Commission has overlooked that fact the EDUs currently used by Aqua to bill SCH USA for wastewater service are not calculated consistent with the clear language in Aqua's tariff, or with 25 Pa. Code § 73.17 as incorporated in the tariff. The EDUs have no relationship whatsoever to actual usage at the property and result in SCH USA being significantly overcharged for wastewater service. The current EDUs billed to SCH USA represent a more than 60% overcharge relative to the actual characteristics of the property. These inaccurate charges do not comply with Aqua's tariff and are unjust and unreasonable.

SCH USA respectfully requests that the Commission reconsider its Order and either: (1) direct Aqua to bill SCH USA for 120 EDUs or 206.2 EDUs as calculated under 25 Pa. Code § 73.17, and adjust SCH USA's bills back to October 29, 2020 accordingly; or (2) remand this matter for further proceedings to determine the proper number of EDUs as calculated consistent with Aqua's tariff and Section 73.17.

II. STANDARD FOR RECONSIDERATION

1. The Public Utility Code establishes a party's right to seek relief following the issuance of a decision.³ Such requests for relief must be consistent with Section 5.572 of the Commission's regulations and/or Section 703(g) of the Public Utility Code.⁴

2. It is well settled that petitions made pursuant to Section 703(g) may properly raise any matters designed to convince the Commission that it should exercise its discretion under the

³ 66 Pa. C.S. § 703(f) (relating to rehearings) and § 703(g) (relating to rescission, clarification and amendment of orders).

⁴ 52 Pa. Code § 5.572 (relating to petition for relief following the issuance of a final decision); 66 Pa. C.S. § 703(g).

Public Utility Code to rescind or amend a prior order in whole or in part.⁵ The standard for granting a petition for reconsideration, modification or clarification was set forth in *Duick v. Pennsylvania Gas and Water Company*.⁶

3. What the Commission expects in petitions for reconsideration are new and novel arguments not previously heard, or considerations which appear to have been overlooked by the Commission. Additionally, a Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.⁷

4. As discussed below, the issues raised in this Petition for Reconsideration clearly meet these standards, as the Commission overlooked or did not consider a number of SCH USA's arguments. In particular, the Commission overlooked or omitted consideration of the fact that the EDUs billed to SCH USA are not calculated consistent with Aqua's tariff and with 25 Pa. Code § 73.17 as incorporated in Aqua's tariff.

III. REQUESTS FOR RECONSIDERATION

A. **The Commission Overlooked That SCH USA's EDUs Are Not Calculated Consistent with 25 Pa. Code § 73.17 In Violation of Aqua's Tariff**

5. The Commission's Order overlooks the fact Aqua's current billing practice as applied to SCH USA violates the clear terms of Aqua's tariff by failing to calculate EDUs in the manner described in and consistent with the tariff, and with 25 Pa. Code § 73.17 as incorporated in Aqua's tariff.

6. Aqua's tariff requires that EDUs be determined based upon the estimated average daily wastewater flow for the type of business, as calculated by the Pennsylvania Department of Environmental Protection ("PA DEP") regulation at 25 Pa. Code § 73.17, divided by the typical

⁵ *Duick v. Pennsylvania Gas and Water Co.*, Docket No. C-R0597001 *et al.*, 56 Pa. P.U.C. 553 (1982).

⁶ *Id.*

⁷ *Id.*

estimated average daily wastewater flow from a current single-family unit.⁸ As a public utility, Aqua is required to comply with its tariff; it may only charge the rates specified therein,⁹ and cannot discriminate or maintain unreasonable differences in rates.¹⁰

7. The Order overlooks or omits any consideration of 25 Pa. Code § 73.17, and the fact that the EDUs currently billed to SCH USA are not correctly calculated under this regulation as required in Aqua's tariff. While the Order discussed the historical assignment of EDUs, there was no substantive consideration given to the fact that Aqua's tariff mandates a specific regulatory calculation method – one that is inconsistent with the EDU calculation inherited and maintained by Aqua.

8. In other words, the EDU definition in Aqua's tariff and the calculation procedure for EDUs established in Aqua's tariff and in 25 Pa. Code § 73.17 were not applied or evaluated by the Commission. Neither the Commission's Order nor the ALJ's Initial Decision includes any discussion of Section 73.17 or whether the formula was correctly applied as required by Aqua's tariff. This omission or misapplication warrants reconsideration.

9. As SCH USA's expert testified, billing SCH USA based on EDUs originally determined in the inapplicable 2010 Settlement does not comport with the calculation method outlined in the tariff.¹¹ The Order also overlooks the significant difference between the EDUs under the expired 2010 settlement as compared to the EDUs that would be charged to SCH USA if the tariff provision was applied as written.

⁸ Aqua Tariff Sewer-PA P.U.C. No. 3, Original Page 25.

⁹ 66 Pa. C.S. § 1303.

¹⁰ 66 Pa. C.S. § 1304.

¹¹ *See* SCH USA MB at 6; SCH USA RB at 7.

10. If the calculation outlined in 25 Pa. Code § 73.17 is correctly applied, it would result in an EDU calculation that is significantly lower than the 330 EDUs that Aqua currently bills to SCH USA.¹²

11. There is more than one potential outcome when calculating the EDUs as described in 25 Pa. Code § 73.17, depending on how broadly or narrowly a “hotel” is defined. This calculation may range from 120 EDUs to 206.2 EDUs. Using a narrow definition of hotel the calculation under Section 73.17 results in 206.2 EDUs, as shown by SCH USA witness Carrier. Using a broad definition of hotel under Section 73.17 results in 120 EDUs.¹³ Both outcomes result from consistent application of the same formula, with the variation due solely to objective differences in how building types are categorized. In either case, any calculation made under Section 73.17 is significantly lower than the 330 EDUs that Aqua is currently charging.

12. Notably, Aqua did not dispute the analysis of the proper EDU calculation under 25 Pa. Code § 73.17 provided by SCH USA witness Carrier.¹⁴ In fact, there is nothing in the record showing that Aqua did any calculation whatsoever providing a basis for the current EDUs.

13. Aqua, and the Commission’s Order, rely on the 2010 Settlement as the basis for the current EDUs charged to SCH USA.¹⁵ However, the 2010 Settlement provides for 430 EDUs,¹⁶ and reflects various properties have been sold or transferred since the agreement was made. SCH USA does not own all of those properties. The only properties owned by SCH USA

¹² SCH USA St. No. 2 at 9-11; Exh. RTC-2.

¹³ There are 392 rooms described by SCH USA witness Padilla. If each room is allocated 25% of an EDU, the rooms would account for 98 EDUs. Adding those 98 EDUs to about 22 EDUs for other non-hotel sources of wastewater, the total number of EDUS would be 120 EDUs.

¹⁴ See SCH USA St. No. 2-SR at 2.

¹⁵ See Order at 4, fn. 5, 15, 19-21.

¹⁶ Exh. FL-1 at 5-7.

are described by SCH USA witness Padilla.¹⁷ Aqua has made no effort to justify the 330 EDUs it currently charges, to confirm whether the EDUs reflect various changes in ownership, or even whether the calculation complies with its own tariff.

14. Therefore, Aqua's current flat rate billing process as applied to SCH USA is illegal and in violation of Aqua's tariff and must not be permitted to continue. The Commission should reconsider its Order, and either: (1) direct Aqua to bill SCH USA for 120 EDUs or 206.2 EDUs as calculated under 25 Pa. Code § 73.17; or (2) remand this matter for further proceedings to determine the proper number of EDUs as calculated consistent with Aqua's tariff and Section 73.17.

B. Aqua Did Not Assume SCH USA's EDUs from the 2010 Settlement

15. In allowing Aqua to continue billing for the EDUs in the Kidder 2010 Settlement, the Order overlooks the fact that Aqua did not assume the provisions of the settlement related to SCH USA's EDUs, and therefore the EDUs were not appropriately transferred from Kidder to Aqua as the Order states.¹⁸

16. The EDUs assigned to SCH USA were determined during litigation initiated in 2007 between a prior owner of Split Rock Resort and Kidder Township.¹⁹ During the course of that proceeding, the litigants reached a Settlement Agreement ("2010 Settlement") on several issues, including the number of EDUs that would be used in calculating Split Rock Resort's wastewater charges.²⁰ Nothing in that 2010 Settlement indicates that EDUs were calculated under 25 Pa. Code § 73.17. Later, in 2012, Little Washington Wastewater Company d/b/a

¹⁷ SCH USA St. No. 1 at 2.

¹⁸ See SCH USA St. No. 3 at 3-5; SCH USA MB at 6-7.

¹⁹ See SCH USA MB at 6-7; SCH USA St. No. 3 at 3-5.

²⁰ SCH USA Exh. FL-1, Release and Settlement Agreement, *Vacation Charters LTD., Split Rock Country Club, Inc., Summit Management & Utilities, Inc., v. Kidder Township*, In the Court of Common Pleas of Carbon County, Pennsylvania, Docket No. CV-07-4079.

Suburban Wastewater Company (“LWWC”) entered into an Asset Purchase Agreement (“APA”) with Kidder Township to purchase the wastewater system.²¹ Under this APA, only two paragraphs from that Settlement were transferred from Kidder Township to LWWC – and those paragraphs did not include the EDUs for the Split Rock Resort.²²

17. Specifically, the APA states: “LWWC shall not assume any rights or obligations of Seller under any contract, agreement, commitment, lease, certificate, permit or other instrument, whether oral, written, express or implied, except with respect to: (i) those agreements, contracts, permits and other instruments listed on Schedule 1.4 attached hereto....” Schedule 1.4 of the APA states “Seller shall assign to LWWC Seller's right to collect the payments still to be made by the Plaintiff to Kidder Township under paragraphs nine and ten of that certain Release and Settlement Agreement entered by and between Vacation Charters LTD as Plaintiff and Kidder Township pursuant to the civil action filed in the Court of Common Pleas of Carbon County, Pennsylvania at Docket No. CV-07-4079....” The payments outlined in paragraphs nine and ten of the Settlement were to resolve disputed charges from the wastewater system between 2002 and 2010 and did not include an explanation of how the EDU calculations for the Resort were made. As such, LWWC did not assume the portions of the 2010 Settlement related to the Resort’s EDU calculations, and Aqua likewise did not assume those EDU provisions when it later acquired the system.

18. The Order overlooks the plain language of these agreements, which shows that the 2010 Settlement has long expired, and any terms related to EDU calculations for the Resort were not assumed by Aqua when it acquired the wastewater system. Further, SCH USA never assumed the position of its predecessor in the 2010 Settlement. The EDU determinations outlined

²¹ SCH USA Exh. FL-2 provides a copy of the Asset Purchase Agreement.

²² SCH USA MB at 6; SCH USA St. No. 3 at 4-5.

in the 2010 Settlement should have no bearing whatsoever on the calculation of EDUs for the Resort today or how SCH USA's current wastewater bills should be calculated. By continuing to rely on these outdated and baseless EDU calculations, Aqua is imposing improper charges on SCH USA that are unjust and unreasonable.²³

19. Aqua cannot show that the EDUs being used to charge SCH USA are just and reasonable under the Public Utility Code merely because a municipality previously charged the same number of EDUs. The tariff language in place at the time this Complaint started did not include the phrase "Except for existing Customers acquired by the Company through a purchase or acquisition and for billing purposes only." Aqua cannot rely upon this later-added language to justify its EDU calculations. Nor should such language empower Aqua to rely upon a number of EDUs that is not supported by Aqua's definition or the formula in Section 73.17.

C. Aqua's Prior Rate Cases Did Not Specifically Address SCH USA's EDUs

20. The Order also overlooks the fact that neither the 2018 nor 2021 Aqua rate cases specifically approved an allocation of costs or number of EDUs applicable to SCH USA. As SCH USA witness Frank Lacey testified, a review of Aqua's last two rate cases shows that the Commission did not expressly approve an allocation of costs or EDUs specific to SCH USA in either of those proceedings.²⁴

21. Aqua's briefs and the Order generically cite to these proceedings, but they do not point to any specific citation where the Commission has approved the number of EDUs that it argues must be billed to SCH USA. Further, Aqua's current tariff does not include any mention of EDUs specific to SCH USA.

²³ See SCH USA MB at 6-7.

²⁴ See SCH USA St. No. 3-SR at 4-6.

22. The Order ignores that there was no specific discussion of SCH USA's EDUs or costs in Aqua's previous rate cases. Simply because Aqua has had prior rate increases approved does not provide a basis for this unjust and unreasonable billing practice to continue being applied to SCH USA.

IV. CONCLUSION

WHEREFORE, based on the foregoing, SCH USA respectfully requests that the Commission grant this Petition for Reconsideration and either: (1) direct Aqua to bill SCH USA for 120 EDUs or 206.2 EDUs as calculated under 25 Pa. Code § 73.17, and adjust SCH USA's bills back to October 29, 2020 accordingly; or (2) remand this matter for further proceedings to determine the proper number of EDUs as calculated consistent with Aqua's tariff and Section 73.17; and grant any other relief in favor of SCH USA as may be just and proper under the circumstances.

Respectfully submitted,

/s/ Lauren M. Burge

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