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August 4, 2025

**Via Electronic Filing**

Matthew Homsher, 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.  
Answer to Petition for Reconsideration**

Dear Secretary Homsher:

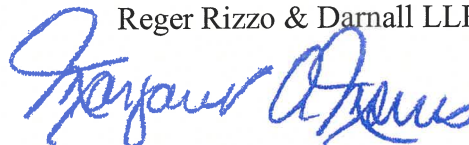
Pursuant to 52 Pa. Code § 5.572(e), attached for filing is the Answer of Aqua Pennsylvania Wastewater, Inc. to the Complainant's Petition for Reconsideration in the above-referenced proceeding.

A copy of the enclosed Answer has been forwarded to the Complainant 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.]

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**CERTIFICATE OF SERVICE**

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

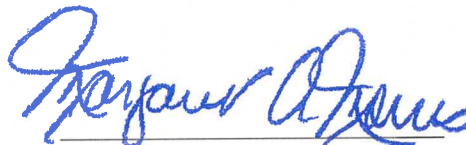
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Dated: August 4, 2025

  
Margaret A. Morris, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCH USA, LLC

v.

AQUA PENNSYLVANIA  
WASTEWATER, INC.

:  
:  
:  
:  
:  
:

Docket Nos.: C-2022-3036893  
C-2022-3037118

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**ANSWER OF AQUA PENNSYLVANIA WASTEWATER, INC. TO  
COMPLAINANT'S PETITION FOR RECONSIDERATION**

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2929 Arch Street  
Philadelphia, PA 19104

Dated: August 4, 2025

*Counsel for Aqua Pennsylvania Wastewater, Inc.*

## **I. INTRODUCTION**

In accordance with Section 5.572(e) of Commission's regulation, 52 Pa. Code § 5.571(e), Aqua Pennsylvania Wastewater, Inc. ("Aqua" or the "Company") files its Answer to the Petition for Reconsideration ("Petition") of SCH USA, LLC ("Complainant" or "SCH USA") filed with the Commission on July 25, 2025, which alleges material errors of law and fact in the *Opinion and Order*, entered July 10, 2025 ("*July 2025 Order*"). The Commission should deny the Petition for failing to meet the standard for reconsideration and or rehearing.

## **II. RELEVANT PROCEDURAL BACKGROUND**

On November 21, 2022, SCH USA filed a Formal Complaint with the Commission against Aqua at Docket No. C-2022-3036893 concerning unmetered wastewater service to three separate accounts at three separate service locations. On November 29, 2022, SCH USA filed a Formal Complaint against Aqua at Docket No. C-2022-3037118 concerning unmetered wastewater service to one account at one service location separate from those accounts and locations complained of at Docket No. C-2022-3036893. In both Formal Complaints, Complainant is alleging Aqua is threatening to shut off its service and is incorrectly charging it for unmetered wastewater service.

On December 12, 2022, Aqua filed an Answer and New Matter to the Formal Complaint filed at Docket No. C-2022-3036893. On December 27, 2022, Aqua filed an Answer and New Matter to the Formal Complaint filed at Docket No. C-2022-3037118. In both pleadings Aqua averred that SCH USA is billed pursuant to the Commission-approved Rate Zone 4 tariff and denies there are any incorrect charges on the accounts. In both new matters Aqua avers Complainant does not allege Respondent has violated the Pennsylvania Public Utility Code ("Code") Commission regulations or orders, or its Commission-approved tariff.

On December 29, 2022, SCH USA filed a Reply to New Matter at both dockets. In both pleadings, although SCH USA admits it is being billed pursuant to Aqua’s Rate Zone 4 tariff, SCH USA alleges that it is being incorrectly charged based on a number of Equivalent Dwelling Units (“EDUs”) included in a settlement agreement rather than applying the definition of EDU contained in Aqua’s tariff.

Parties submitted pre-served testimony and exhibits consistent with the modified litigation schedule. An evidentiary hearing was held on September 24, 2024. During the hearing, the parties’ pre-served testimony and exhibits were admitted into the record. Parties also agreed that main briefs would be due on January 9, 2025, and reply briefs would be due January 29, 2025. On September 26, 2024, an *Order* was issued on Briefs, Admitting Evidence, and Closing the Record.

On January 9, 2025, SCH USA and Aqua filed main briefs. On January 29, 2025, SCH USA and Aqua filed reply briefs.

On April 24, 2025, the Initial Decision was entered, dismissing both Formal Complaints for Complainant’s failure to carry its burden of proof. The Complainant filed Exceptions to the Initial Decision on May 14, 2025. The *July 2025 Order*, which denied the Exceptions, was entered July 10, 2025.

### **III. LEGAL STANDARD FOR PETITION FOR RECONSIDERATION**

The Pennsylvania Public Utility Code (“Code”) establishes a party’s right to seek relief following the issuance of final decisions pursuant to Subsections 703(f) and (g), 66 Pa. C.S. §§ 703(f) and 703(g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with 52 Pa. Code § 5.572 relating to petitions for relief following the issuance of a final decision. The standards for granting a Petition for

Reconsideration were set forth in *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. PUC 553 (1982), at 558:

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard [the Commission] agree[s] with the Court in the Pennsylvania Railroad Company case, wherein it was said that “[p]arties . . ., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them . . . .” *What [the Commission] expect[s] to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.* Absent such matters being presented, [the Commission] consider[s] it unlikely that a party will succeed in persuading [it] that [the Commission’s] initial decision on a matter or issue was either unwise or in error. (Emphasis added).

In reviewing a petition for reconsideration, the Commission must use a “totality of the circumstances” approach to determine whether it should exercise its discretion to reconsider. *Feleccia v. PPL Electric Utilities Corp.*, Docket No. C-2016-20016210 (Order entered Mar. 7, 2003). The Supreme Court of Pennsylvania has held that “[b]ecause such relief [of reconsideration] may result in disturbance of final orders, it must be granted judiciously and only under appropriate circumstances.” *Pittsburgh v. Pa. Dep’t of Transp.*, 416 A.2d 461, 465 (Pa. 1980). The petitioner seeking reconsideration bears the burden of establishing “the existence of newly discovered evidence, a substantial change in circumstances, or an error of fact or law.” *Althea Poe-Henderson v. Philadelphia Gas Works*, Docket No. F-2019-3010206, 2020 LEXIS 249, at \*5–6 (Pa. P.U.C. Aug. 6, 2020). In interpreting “newly discovered evidence,” the Commission has cautioned that this means newly discovered evidence “not discoverable through the exercise of due diligence prior to the close of the

record.” *Duick*, at 558. Thus, a petition for reconsideration cannot be used to allege new arguments which could have, *and should have* been previously raised, but were not.

The Commission has administrative discretion regarding whether to grant or deny a petition for reconsideration of an order filed under Section 703(g). *West Penn Power Co. v. Pa. PUC*, 659 A.2d 1055, 1065 (Pa. Cmwlth. 1995). Such a petition, however, should only be granted judiciously and under appropriate circumstances, because such action results in the disturbance of a final order. *City of Pittsburgh v. Pa. Dep’t of Transportation*, 416 A.2d 461 (Pa. 1980).

As explained below, the Commission should deny the Petition as no argument presented by SCH USA meets the high legal standard for reconsideration of a Commission’s final order. *Pa. PUC v PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597 (Opinion and Order entered February 28, 20130). The stated reasons for the requested reconsideration were already addressed and dismissed in the *July 2025 Order*. Furthermore, in the Aqua 2024 Rate Case proceeding, the Commission rejected these same unfounded arguments. See, Docket R-2024-3047822, *et al.*, *Opinion and Order* entered April 10, 2025 (“2024 Rate Order”).

#### **IV. JULY 2025 ORDER**

The Commission summarized the Exceptions filed by SCH USA which are relevant to the Petition as follows:

In its Exceptions, SCH USA continues to dispute the number of EDUs assigned to the Resort. Specifically, in its Exception No. 1, SCH USA contends that ALJ Coogan erred by finding that SCH USA is being appropriately billed at the EDUs established in the Kidder Settlement. SCH USA restates its position that the Kidder Settlement has long expired and was not assumed by Aqua when it acquired the wastewater system. It is SCH USA’s position that the EDU determinations outlined in the Kidder Settlement have no bearing whatsoever on how SCH USA’s current wastewater bills should be calculated. SCH USA states that the ALJ ignored that Aqua’s position violates its own tariff by failing to calculate EDUs in the manner described by its tariff. Exc. at 2-4. P. 15-16.

...[T]he inherent issue, *i.e.*, Aqua's current practice of billing SCH USA a flat rate for unmetered wastewater service based on EDUs, giving rise to SCH USA's objections expressed in both the instant Complaints and the *Aqua 2024 Rate Case*, has, in essence, already been litigated fully and separately as part of the *Aqua 2024 Rate Case*; therefore, the Commission's decision in the *Aqua 2024 Rate Case* lends support to the findings we make here. P. 18.

Regarding its first argument, that the ALJ improperly relied on outdated and baseless EDU calculations from the Kidder Settlement which has expired, we agree with ALJ Coogan's conclusion that SCH USA previously raised the same arguments which were addressed and rejected by the Commission in the *Aqua 2024 Rate Case* and in the *Aqua 2024 Reconsideration Order*. There, we explained that the EDUs proposed to be included in Aqua's tariff were the result of several prior proceedings beginning with the Commission's approval of Aqua's acquisition of the Kidder Township wastewater system in the *Kidder Township Order*. Additionally, we clarified that it is commonplace with any acquisition for the number of EDUs, or billing determinants, associated with a customer to remain consistent with what the system's previous owner had been charging. We reasoned that the Commission approved Aqua's acquisition of the Kidder Township wastewater system and found that the Compliance Tariff for the Kidder Township acquisition explicitly listed the number of EDUs associated with the Resort. *Aqua 2024 Rate Case* at 160. (footnote omitted).

Thereafter, we explained:

[T]he Commission has reviewed the EDUs billed to SCH USA'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.

*Aqua 2024 Rate Case* at 160.

Moreover, in our *Order on Reconsideration*, we explained:

It is evident that the argument of SCH USA pertaining to the alleged reliance on the Kidder Settlement has been rejected on two occasions: first, as recommended

by the ALJs in the Recommended Decision, and second by the Commission in the [*Aqua 2024 Rate Case*] *Order*. We decline to exercise our discretion to entertain the same argument a third time here. More importantly, we find no reason to depart from our rationale that the EDUs which form the basis of the revenue requirement for the rate zone applicable to SCH USA have been included in Aqua’s tariff as a result of a number of prior proceedings. Beginning with the *Kidder Township Order* in 2012 and the Compliance Tariff filed in response to that Order, and later by two subsequent Aqua rate case proceedings in 2018 and 2021, the number of EDUs applicable to the accounts of SCH USA have been well established.

*Aqua 2024 Reconsideration Order* at 54.

Therefore, we disagree with the contention of SCH USA that ALJ Coogan overlooked the fact that neither the Commission’s decision in the *Aqua 2018 Rate Case* nor its decision in the *Aqua 2021 Rate Case* specifically approved an allocation of costs or a number of EDUs applicable to SCH USA. Such argument fails to acknowledge that the rate applicable to SCH USA has long been established. As reasoned above, it is clear, pursuant to the *Kidder Township Order*, the *Kidder Township Order – Compliance Tariff*, the *Aqua 2018 Rate Case*, the *Aqua 2021 Rate Case*, and the *Aqua 2024 Rate Case* that the number of EDUs applicable to the accounts of SCH USA has been confirmed for some time. Thus, SCH USA’s repeated reliance on the Kidder Settlement for support that its rate is somehow inconsistent with the terms of the Company’s tariff is not persuasive.

*July 2025 Order* at 18-21.

## V. PETITION

In its Petition, SCH USA lists the following three arguments, set forth verbatim, that it contends the Commission “overlooked or did not consider” in the *July 2025 Order*. Aqua’s answer to each argument is set forth below.

- 1. The Commission overlooked that SCH USA’s EDUs are not calculated consistent with 25 Pa. Code § 73.17 in violation of Aqua’s Tariff.**

## **Aqua's Response**

This issue was raised as part of SCH USA's Exceptions No. 1. Although not specifically rejected in the *July 2025 Order*, the Commission did specifically state:

[T]he Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. PA. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); see also, *University of Pennsylvania v PA. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Exceptions that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. (Emphasis added).

*July 2025 Order at 12.*

The Commission did not “overlook” this issue, as alleged. It was duly considered and deemed denied without further discussion. SCH USA has not met the standard to reconsider this issue.

### **2. Aqua did not assume SCH USA's EDUs from the Settlement.**

## **Aqua's Response**

This issue was raised in SCH USA's Exceptions No. 1. The *July 2025 Order* clearly addressed this issue and denied the Exception. SCH USA has not met the standard to reconsider this issue.

### **3. Aqua's prior Rate Case did not specifically address SCH USA's EDUs.**

## **Aqua's Response**

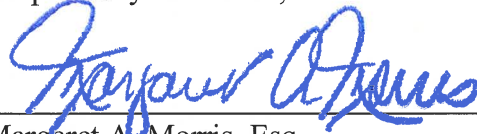
This argument was addressed under SCH USA's Exception No. 1. SCH USA argued that Initial Decision erred in accepting Aqua's claims that that the Commission approved the EDU-based billing in the *2019 Rate Order* and the *2022 Rate Order*. The *July 2025 Order* clearly addressed this issue and denied the Exception. SCH USA has not met the standard to reconsider this issue.

**VI. CONCLUSION**

The Commission should deny the Petition because SCH USA has failed to meet the strict legal standard necessary for reconsideration. Specifically, SCH USA has failed to establish any “newly discovered evidence, a substantial change in circumstances, or an error of fact or law.” Despite SCH USA’s characterization of their arguments as “new and novel,” its Petition merely regurgitates the same arguments previously raised and dismissed in the *July 2025 Order*.

**WHEREFORE**, for the reasons set forth above, Aqua Pennsylvania Wastewater, Inc., respectfully requests that the Commission deny the Complainant’s Petition for Reconsideration.

Respectfully submitted,



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Dated: August 4, 2025

*Counsel for Aqua Pennsylvania Wastewater, Inc.*