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December 29, 2025

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Joint Application of American Water Works Company, Inc., Essential Utilities, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC and Peoples Gas Company LLC and Alpha Merger Sub, Inc. for a Certificate of Public Convenience under Sections 1102(a)(3) and 2210(c) of the Public Utility Code and All Other Necessary Approvals to Effect a Change of Control of Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC Docket Nos. A-2025-3058927; A-2025-3058928; A-2025-3058929 - ***CWA Protest***

Dear Secretary Homsher:

Please find the attached **Protest of the Chester Water Authority** in the above noted proceeding.

As indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,
CLARK HILL

/s/ Joseph W. Jesiolowski
Joseph W. Jesiolowski
Counsel for CWA

JWJ
Enclosures

CC: Certificate of Service

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BEFORE THE PENNSYLVANIA PUBLICY UTILITY COMMISSION

Joint Application of American Water Works Company, Inc., Essential Utilities, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC and Peoples Gas Company LLC and Alpha Merger Sub, Inc. for a Certificate of Public Convenience under Sections 1102(a)(3) and 2210(c) of the Public Utility Code and All Other Necessary Approvals to Effect a Change of Control of Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC	Docket Nos. A-2025-3058927 A-2025-3058928 A-2025-3058929

PROTEST OF CHESTER WATER AUTHORITY

I. Introduction.

Chester Water Authority ("CWA"), through its legal counsel, hereby files this Protest to the captioned proceeding pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission ("PUC"), 52 Pa. Code §§ 5.51-5.53, and Chapters 11, 21, and 22 of the Public Utility Code, 66 Pa. C.S. §§ 1102, 1103; 2102; 2210.

On November 26, 2025, American Water Works Company, Inc. ("American Water"), Essential Utilities, Inc. f/k/a Aqua America, Inc. ("Essential"), Aqua Pennsylvania, Inc. ("Aqua PA") and Aqua Pennsylvania Wastewater, Inc. ("Aqua PA Wastewater"), Peoples Natural Gas

Company LLC ("Peoples"), and Alpha Merger Sub, Inc. ("Merger Sub") (collectively the "Joint Applicants") filed a Joint Application seeking the PUC to allow a change of control of Aqua PA, Aqua PA Wastewater, and Peoples to be affected by the merger of Essential and Merger Sub, a wholly owned subsidiary of American Water. If the Joint Application is approved, Essential would continue as the surviving corporation as a wholly owned subsidiary of American Water, resulting in Aqua PA, Aqua PA Wastewater, and Peoples becoming indirect subsidiaries of American Water and part of the same family of companies as American Water's Pennsylvania water and wastewater company Pennsylvania American Water Company. The Joint Application requests consideration on an expedited basis and approval on or before December 17, 2026.

CWA submits this Protest to argue that the Application should not be approved because it: 1) is not in the public interest; 2) provides no substantial affirmative benefits to the public, which includes the ratepayers of American Water, Essential, Aqua PA, Aqua PA Wastewater, and Peoples as well as the public as a whole; 3) it has an anti-competitive or discriminatory impact; and 4) it is not in accordance with applicable Pennsylvania law, including the Public Utility Code and PUC regulations as well as applicable court precedent.

II. Protestant information and standing.

1. Chester Water Authority is a municipal water provider incorporated pursuant to the Pennsylvania Municipalities Authorities Act, 53 Pa.C.S. § 5601, et seq.

2. CWA serves approximately 200,000 people and businesses across 37 municipalities throughout Chester and Delaware Counties. CWA also has a treatment plant and other related infrastructure in Lancaster County.

3. CWA's administrative headquarters is located at 415 Welsh St, Chester, PA 19013.

4. CWA has pending litigation against Aqua PA that could be jeopardized if the merger is approved.

5. CWA is also a ratepayer of DELCORA, the Delaware County Regional Water Quality Control Authority, which is the subject of an acquisition attempt by Aqua PA Wastewater. CWA's current rates with DELCORA are much lower than the rates Aqua PA Wastewater charges. American Water's rates are even higher still. If the DELCORA sale goes through, and then the Essential-American merger is approved, CWA will eventually be moved onto American Water's much higher rates.

6. Many of CWA's ratepayers receive wastewater service from DELCORA or Aqua PA Wastewater.

7. Further, many families in CWA's service territory are low-income. For years, CWA has been advocating and working diligently to keep water and wastewater rates affordable in Pennsylvania, particularly for low-income families in CWA's service territory. CWA has advocated for water and wastewater affordability in numerous written letters to public officials, in hearings of the state legislature, in public speeches and rallies, in numerous media articles, and in local grassroots community organizing.

8. For all of these reasons, CWA is in a unique position to be affected by the proposed merger.

9. Other participants in this proceeding do not adequately represent these unique interests.

10. The outcome of this proceeding will directly affect both CWA and CWA's ratepayers.

11. CWA therefore has a significant interest in the impact of the Joint Applicant's proposals.

12. CWA has standing to participate because CWA has or will suffer a direct, immediate, and substantial injury to an interest because of this proceeding.

13. CWA also has standing to participate because CWA's ratepayers have or will suffer a direct, immediate, and substantial injury to an interest because of this proceeding. *See Energy Cross Council of Pa. v. Pa. PUC*, 995 A.2d 465, 476 (Pa. Commw. 2010) (alteration in original) (citing *Tripps Park v. Pa. PUC*, 415 A.2d 967 (Pa. Commw. 1980) (finding that "an association may have standing as a representative of its members ... as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing."); *Parents United for Better Schools v. School District of Philadelphia*, 646 A.2d 689 (Pa. Commw. 1994)).

III. Protest.

14. The Joint Application must be examined pursuant to Chapters 11, 21, and 22 of the Public Utility Code. 66 Pa. C.S. §§ 66 Pa. C.S. §§ 1102; 1103; 2102; 2210.

15. Section 1102 of the Public Utility Code requires that the PUC issue a Certificate of Public Convenience as a legal prerequisite to offering service, abandoning service and certain property transfers by a public utility or their affiliated interests. 66 Pa. C.S. § 1 102(a)(1)-(3). As set forth below, the PUC must also examine this transaction under the provisions of Chapters 21 and 22 of the Code.

16. Section 1103 requires that a certificate shall only be granted upon findings that "the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa. C.S. § 1103(a). The Supreme Court has found that this section of the

Code requires a finding that a proposed merger will affirmatively benefit the public and "affirmatively promote the 'service, accommodation, or convenience or safety of the public' in some substantial way." *City of York v. Pa. P.U.C.*, 295 A.2d 825, 828 (Pa. 1973) (internal citations omitted); *see Popowsky v. Pa. P.U.C.*, 937 A.2d 1040, 1054 (Pa. 2007).

17. Additionally, Section 1103 explicitly allows the PUC to impose conditions upon the issuance of a Certificate of Public Convenience. 66 Pa. C.S. § 1103(a). Section 1103(a) of the Code provides: "The Commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable."

18. If the PUC ultimately approves the proposed merger set forth in the Joint Application – which the PUC should not do – the PUC must, at least, impose conditions to ensure that there are affirmative public benefits that are durable and that accrue broadly including to the benefit of thousands of low-income customers within the combined service territory. The PUC should also impose conditions to ensure corporate transparency and political accountability, such as disclosures tracking political spending and lobbying.[1]

19. Further, Section 2102 of the Code states that prior to any arrangement providing for the furnishing of certain services, *e.g.*, management, supervisory, construction, engineering, accounting, legal, or similar services, between a public utility and any affiliated interest, PUC approval must be obtained. 66 Pa. C.S. § 2102(a).

20. Section 2210(a) of the Code requires that the PUC consider the potential anti-competitive effects and the impact on employees of a merger or combination "in the exercise of

[1] *See* https://www.politicalaccountability.net/wp-content/uploads/2024/03/Harvard-Law-School-Forum-on-Corporate-Governance-Guide-to-Becoming-a-Model-Code-Company.pdf and https://www.politicalaccountability.net/wp-content/uploads/2025/11/2025-CPA-Zicklin-Index.pdf.

authority the commission may otherwise have to approve mergers and consolidations" involving natural gas distribution companies. 66 Pa. C.S. § 2210(a)(1). As the proposed Merger includes Peoples, a natural gas distribution company as defined by the Code, Section 2210(a) is implicated.

21. The Joint Application raises several important issues that must be resolved by the PUC before granting approval of this proposed Merger. Based upon the CWA's preliminary review of the Joint Application, the Joint Application and proposals of the Joint Applicants as filed do not support a conclusion that the proposed Merger is "necessary or proper for the service, accommodation, convenience or safety of the public," 66 Pa. C.S. § 1103(a), or that it "affirmatively promote[s] the service, accommodation, convenience or safety of the public in some substantial way." *City of York* at 828.

22. Specifically, CWA has identified the following areas that require further consideration by the PUC and must be resolved prior to PUC approval:

a. The Joint Application provides that the proposed Merger will not have any adverse impact on Aqua PA's or Peoples' rates. Joint Application ¶ 32. The PUC must examine the impact the proposed acquisition will have on the rates for the Applicants' customers. The Supreme Court has made clear that:

> In engaging in this affirmative public benefit analysis, the Commission is required to consider the impact that granting the CPC would have on rates. In *City of York*, we stated "the Commission should consider, at least in a general fashion, the effect that a proposed merger is likely to have on future rates to customers. Along with the likely effect of a proposed upon the service that will be rendered to consumers, the probable general effect of the merger upon rates is certainly relevant criteria of whether the merger will benefit the public." *City of York*, 295 A.2d at 829. As such, the Commission cannot postpone considering the impact on rates until a future rate base case but, rather, must consider the impact on rates as part of its affirmative public

> benefits analysis. *McCloskey*, 195 A.3d at 1066. This consideration may include the rate impact on both existing and new consumers. *Id.* at 1067.

Lawrence v. Pa. P.U.C., ____ A.3d ____, Docket Nos. 47-49 MAP 2024, Slip. Op., at 29-30 (Pa. Dec. 16, 2025) (*citing City of York v. Pennsylvania Public Utility Commission,* 295 A.2d 825 (Pa. 1972) and *McCloskey v. Pa. Pub. Util. Comm'n.*, 195 A.3d 1055, 1058 (Pa. Cmwlth. 2018)). While the Pennsylvania Supreme Court allowed the acquisition of East Whiteland's system to go through, the decision confirms that the PUC is the primary arbiter of whether a transaction is in the public interest. The PUC should reassert itself in that regard, and the proposed transaction here is the place to do it.

b. In addition to the consideration of rates, prior to approval of the Joint Application, the PUC must examine the impact the proposed acquisition will have on consolidation of rate zones, rate design, billing practices, and the terms and conditions of service applicable to the Applicants' customers.

c. The Joint Application provides only the baldest of assertions and no material demonstration that the proposal will produce substantial public benefits to ratepayers. Joint Application ¶ 34. Prior to approval of the Application, the PUC must examine whether the proposed acquisition will produce tangible and measurable affirmative benefits to moderate and low-income ratepayers within the Applicants' service territories.

d. The Application asserts that the proposal will renew crucial water infrastructure and improve the quality of service of the Applicants' customers as a result of this acquisition. Joint Application ¶ 34 (a-b). Prior to approval of the Joint Application, the PUC must examine whether the proposed acquisition will maintain or improve the quality of service provided to the Applicants' customers, including reliability, safety, and customer service experience.

e. The Application provides that the Merger will have no adverse effects on Pennsylvania's competitive retail gas market. Joint Application ¶ 26. Prior to approval of the Joint Application, the PUC must examine whether the proposed acquisition will adversely affect retail competition in Pennsylvania.

f. The Joint Application does not demonstrate the impact the acquisition will have on the required Universal Service programs, as well as on the programs that Joint Applicants have been ordered to undertake as a result of prior mergers and settlements. Prior to approval of the Joint Application, the PUC must examine the Applicants' universal service programs and other low-income affordability programs to ensure that these programs are adequately funded, locally managed, and improved to meet the needs of low income, payment-troubled customers in the Applicants' service territories.

g. Prior to approval of the Joint Application, the PUC must examine whether the proposed acquisition is fully consistent with the requirements and standards of the Pennsylvania Public Utility Code.

h. The Joint Application requests that it be considered on an expedited basis by the PUC so that a final order is entered, at the latest, by the December 17, 2026 public meeting. Joint Application ¶ 19.

i. CWA opposes expedited disposition of the Joint Application. The proposed Merger, if approved, will significantly affect the rates and terms and conditions of service for impacted customers, and would create "the nation's largest regulated water and wastewater utility . . . ." (Joint Application at ¶34). It is essential that the operational and financial impacts of Applicants' proposals are adequately and meaningfully analyzed to ensure that the proposals set forth in the Joint Applications comport with applicable

statutes, PUC regulations, and PUC policy. Given the complexity of the issues involved in this proceeding, the size of the surviving entity and the market concentration concerns that may result from the merger, expedited treatment is not warranted.

j. CWA reserves the right to raise additional issues as the case proceeds, and further information is obtained from the Applicants.

IV. Legal representation.

23. CWA is represented in this proceeding by the following attorneys:

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24. CWA's counsel consents to the service of documents by email to kkent@clarkhill.com and jjesiolowski@clarkhill.com, as provided in 52 Pa. Code § 1.54(b)(3).

V. Prayer for relief and conclusion.

WHEREFORE, CWA respectfully requests that the PUC:

(1) Refer this matter to the Office of Administrative Law Judge for the investigation and the scheduling of full evidentiary hearings, including necessary public input hearings, related to the Joint Application.

(2) CWA further requests that the PUC not approve this Application because: (a) the Application is not in the public interest; (b) the Application does not provide substantial affirmative public benefits to the ratepayers of American Water, Essential, Aqua PA, Aqua PA Wastewater, and Peoples, as well as the public generally; (c) the Application does adversely affect

retail competition in Pennsylvania; and, (d) the Application is not in accordance with the public utility code.

Respectfully submitted,

Dated: December 29, 2025

By: /s/ Joseph W. Jesiolowski

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PUBLIC STATEMENT OF CHESTER WATER AUTHORITY

I. Introduction.

The proposed merger of Essential and American Water is deeply contrary to the public interest, and on that basis the Pennsylvania Public Utility Commission ("PUC") must reject the merger application. American Water's rates are substantially more expensive than Essential's already very high rates. For example, Essential's current monthly wastewater rate for the average residential home using 4,000 gallons per month is $103.09.[2] American Water charges

[2] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

$133.16 for the same residential service noted above.[3] This is over 30% more than Essential's already high rates. If American Water acquires Essential, it follows that ratepayers will eventually be moved to American Water's even higher rates.

The proposed merger will also create a mega-corporation that dominates the market and is "too big to regulate."[4]

The proposed merger provides no public benefits that would outweigh the significant public burdens it will create. Essential and American Water are already providing (very expensive) service in many areas throughout the Commonwealth. There is no problem identified by the applicants that the proposed merger will "fix" in exchange for the downside problems it creates. The merger application tries to disguise this by speaking in vague terms about "corporate synergies" and "enhanced access to capital markets." This boilerplate corporate-speak does not come even close to establishing and clearly delineating the affirmative and significant public benefits necessary for the PUC to approve the merger.

Rather than providing any public benefit, the proposed merger is designed to enrich shareholders and corporate executives. It is contrary to law for the PUC to approve the merger.

II. The PUC is supposed to protect "captive ratepayers" who have no choice in their water and sewer providers.

The PUC's mission is to protect the public interest. This was codified by the Legislature and has been repeatedly emphasized by the Pennsylvania Supreme Court. This mission is

[3] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

[4] https://aflcio.org/speeches/trumka-utility-workers-we-are-turning-point#:~:text=All%20across%20America%2C%20the%20story,starting%20to%20see%20the%20consequences. ("Corporate power is consolidating. CEOs have long since grown reckless and greedy. Just look at the utility industry. We have allowed relatively small companies to merge into giants that have become too big to regulate.")

critical considering that public utilities are a government-approved monopoly in a market with inelastic demand.[5]

In a non-monopolistic marketplace, the forces of competition serve as a critical check on business misconduct and profiteering. For example, in a non-monopolistic marketplace like automobile sales, if a consumer did not like the business practices of Ford, or the consumer felt that Ford's prices were too high, the consumer could switch to Toyota. Or, because demand for automobiles is not inelastic, the consumer could stop buying a car altogether and switch to public transportation.

This level of competition and consumer choice allows people to "vote with their dollars," easily switching away from businesses whom the consumers feel are unaffordable or engaged in unsavory practices. This creates a level of competition between Ford and Toyota, and between car manufacturers generally and public transportation. This competition incentivizes business efficiency and the effective delivery of products to the consumer, at prices the consumer finds palatable and agreeable. Competition, then, is a critical check on these businesses; competition keeps them honest, so to speak.

However, the public utility industry has no competition. It is a government-approved monopoly in a marketplace with an inelastic demand. In each town or neighborhood, the government allows only one provider of water or sewer services. If an individual homeowner does not like the water or sewer services he or she is receiving, the homeowner cannot switch utility providers. Nor can the homeowner stop purchasing water or sewer services; the town would revoke a home's certificate of occupancy without a water and sewer hookup. Thus, the

[5] Inelastic demand means consumers buy roughly the same amount of a product even if its price changes significantly, because it is a necessity with few substitutes, like essential medicines, gasoline, or basic food.

homeowner has no choice but to accept the water and sewer services, and the related water and sewer rates, from the sole utility provider that the government allows for a given area. This is known as a "captive ratepayer," a customer with no ability to *not* pay the rates that the PUC allows Essential and Pennsylvania American to charge.

In a marketplace such as that, the potential for abuse of the customer by profit driven investor-owned utilities ("IOUs") is manifest. That is why the Legislature gave the PUC the mission to protect the public interest in connection with rates sought by IOUs. The PUC's essential job is to impose on the monopolist utilities the types of restraint, ruthless efficiency, and customer-oriented focus that would normally be furnished by the forces of competition. The PUC is the *only* recourse customers have to protect them from abuse by their utility providers.

At the same time, the PUC is required by law to allow IOUs to earn a *reasonable* profit – this is not a system of communism. The PUC is required to balance this profit motive with the public interest, because serving the public interest is the primary mission the Legislature has entrusted to the PUC. The PUC must ensure that the economic incentives are correctly applied and available to both consumer and produced in the purchase and sale of utility services. If the incentives favor the IOUs too heavily, then the captured consumers are harmed and the IOUs are allowed to unnecessarily extract money from Pennsylvanians. The PUC must remember that the law does not allow the PUC to approve a merger or acquisition purely because it is good for the IOU's corporate interests; there must also be a substantial and identifiable public benefit to the proposed transaction.

For example, there have been times when the PUC facilitated the acquisition by an IOU of a deeply struggling, small, and inefficient public water or sewer system. The PUC would allow the IOU to raise the rates on the acquired customers, but in return the customers would get

a substantial benefit in the form of much more effective service. In these situations, the PUC balanced the corporate need of the IOU to earn a *reasonable* profit with the public need to fix a struggling public utility system.

However, over the last decade, continued legislative interference and other factors have forced the PUC to lose focus on its core mission of serving the public interest. Instead of protecting the public interest, these developments have effectively forced the PUC's regulatory capture by IOUs, playing into the hands of Essential and Pennsylvania American in particular. Most obviously, Act 12 has forced the PUC to approve dozens of IOU acquisitions of healthy, viable public water and wastewater systems. Then, Act 12 has forced the PUC to allow the acquiring IOUs to raise rates significantly following acquisition, as well as on an ongoing and perpetual basis. In these Act 12 transactions, the corporate benefits to the IOUs are significant and obvious: more customers, more rate base, and more profit. But the public benefits are small or nonexistent, because the public utility being acquired was already providing effective service. Thus, there was nothing for the IOU "to fix" that might justify raising rates significantly on the acquired customers.

In summary, the PUC must remember that its core mission is to serve the public interest. Yes, the PUC is required by law to allow IOUs to earn a *reasonable* profit. But the PUC must carefully balance that profit motive against the public interest, which is the PUC's foremost legislative mandate. This is the true balancing test the PUC must apply when reviewing the merger application here. Essential and American Water are already both large, viable companies that already earn healthy profits for their shareholders. Indeed, the largest shareholders of Essential Utilities and American Water include a Canadian pension fund, a hedge fund, and multiple professional asset management firms. Does the proposed merger allow these

shareholders to earn a *reasonable* profit, or does it allow them to earn an excessive profit on the backs of Pennsylvanians? Do the public benefits of the proposed merger, if they exist at all, outweigh the corporate benefits? Is the proposed merger simply about corporate growth for the sake of corporate growth, or is there really some meaningful public benefit reason that the PUC should permit these two very large companies to become one mega-monopoly? Is it the PUC's job to facilitate a wealth transfer from Pennsylvania water and sewer customers to a hedge fund and Canadian pensioners? These are the questions the PUC should ask itself as it considers the proposed merger application.

Finally, it bears noting that it was the Legislature, not the PUC, that substantially weakened consumer protections by passing Act 12 (Act 12 is discussed in more detail below). Act 12 has handcuffed the PUC in many ways and created perverse incentives favoring IOUs at the expense of captive ratepayers in Pennsylvania. But even within the strictures of Act 12, the PUC is still charged by the Legislature with serving and guarding the public interest. That must be the PUC's primary consideration when evaluating the proposed merger.

III. The privatization of public utilities.

It is next necessary to provide some background on how public utilities went from servicing the public to being a tool for IOUs to turn profits at the expense of the public. The Pennsylvania Legislature first created Municipal Authorities in 1935. These Authorities were created primarily to facilitate the financing and public ownership of public utilities such as water and sewer systems, airports, etc., which are essential to provide necessary public services. The Authorities operate as not-for-profit entities focused solely on providing essential services to the public. The structure and nature of the Authorities have allowed them to operate without influences from corporate entities for decades.

However, in 2016, the Pennsylvania Legislature passed a bill known as Act 12 (66 Pa.C.S.A. § 1329) that allows private, investor-owned utilities to purchase public municipal water and wastewater systems at an inflated "fair market" price and then recoup the sale price *and a profit* from the public by raising rates. Although Act 12 requires that the sought-after water and wastewater systems be appraised to determine a baseline for the value of the systems, the appraisals are done in accordance with a non-traditional inflated valuation method known as "fair market value." The supposed "fair market value" appraisal approach yields inflated appraised values far above the traditional metric of valuing a system based on its original cost less depreciation.

The investor-owned utilities then offer this inflated "fair market value" price to local government officials, hoping the promise of even larger sums will entice them into selling water and wastewater systems that are in strong operational and financial shape. To sweeten the deal, investor-owned utilities often promise to "freeze" any rate increases for a few years, meaning that the real rate pain will only hit once the government officials who vote to sell are no longer in office.

This egregious tactic is essentially a smoke screen that results in government officials becoming blinded by the promise of enormous short-term cash infusions and the promise of no short-term rate increases. This smoke screen has proven very effective at causing elected officials to increasingly agree to sell the operationally and financially healthy water and wastewater systems they oversee, only to then face the wrath of their constituents when rates rise very rapidly.

Investor-owned utilities are glad to offer more money for the systems they acquire since they get it back in permanently increased rates, plus a very lucrative year-over-year profit. Specifically, following a sale Act 12 *requires* that the PUC authorize the acquiring investor-owned utility to raise its rates to recoup the inflated "fair market value" acquisition price *plus* a profit margin. Thus, as soon as they are able following an acquisition, the investor-owned utilities raise

rates sharply. Act 12 has thus created a no-lose situation for the investor-owned utilities and distorted traditional market dynamics so profoundly that these for-profit businesses are racing each other to actually pay *more to acquire municipal water and wastewater systems*.

The losers in these acquisitions are the ratepayers, of course. There is often a public outcry when the investor-owned utilities quickly move to raise rates following acquisitions, with the newly acquired customers feeling duped by the "rate freeze" promises.[6] Indeed, the local governments quickly regret their short-sighted decision to sell healthy public water and wastewater systems.[7] But it is too late. The furious local customers are now saddled with enormous and unnecessary rate increase *forever*.

Recognizing that Act 12 has created a no-lose situation for them, investor-owned utilities have gone on a buying spree in Pennsylvania over the last nine years. Indeed, as an editorial in The Philadelphia Inquirer stated, "residents saddled with hefty water and sewer bill increases can thank lawmakers in Harrisburg for unleashing the frenzy of for-profit water companies buying up local systems."[8]

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[6] "Limerick residents oppose 90% sewer rate hike by Aqua PA," by Evan Brandt, The Times Herald, September 16, 2021 (available at https://www.timesherald.com/2021/09/16/limerick-residents-oppose-90-sewer-rate-hike-by-aqua_-pa/).

[7] "Towns sell their public water systems — and come to regret it," by Elizabeth Douglas, The Washington Post, July 8, 2017 (available at https://www.washingtonpost.com/national/health-science/towns-sell-their-public-water-systems--and-come-to-regret-it/2017/07/07/6ec5b8d6-4bc6-11e7-bc1b-fddbd8359dee_story.html).

[8] "As Pa. municipalities sell water systems to for-profit companies, consumers are left paying the price," by The Editorial Board, The Philadelphia Inquirer, August 18, 2022 (available at https://www.inquirer.com/opinion/editorials/pennsylvania-municipalities-water-sewer-utility-sal_es-20220818.html).

The effects of Act 12 on the public can be seen across Pennsylvania. Aqua recently purchased municipal water and wastewater systems in Limerick Township, New Garden, East Norriton, Cheltenham and East Bradford. Ratepayers in all five towns have seen dramatic early increases in their bills that are continuing to rapidly climb: Limerick Township – up 98%, New Garden – up 90%, East Norriton – up 73%, Cheltenham – up 69% and East Bradford – up 47%.[9] Further, significant rate increases are inevitable as companies like Aqua need to generate the profits required to service their acquisition debt and provide shareholder value. Sometimes, the negative effects on the public are often masked behind discount programs or deferred rate increases. For example, York County's public wastewater system was recently sold to Pennsylvania American Water. The deal prohibits American Water from raising rates for three years, but after that, rates can go up by almost 50%.[10]

These rate increases have a significant and disproportionate impact on low-income communities of color. Many observers, including the NAACP, have documented this phenomenon and accordingly labeled water and wastewater privatization as a form of "environmental racism."[11]

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[9] "Aqua Pa. details its steep rate increase and hits sewer users the hardest," by Andrew Maykuth, The Philadelphia Inquirer, May 24, 2022 (available at https://www.inquirer.com/business/aqua-pennsylvania-rates-water-wastewater-20220525.html). Since this article was published in 2022, the rates have increased even further.

[10] "As Pa. municipalities sell water systems to for-profit companies, consumers are left paying the price," by The Editorial Board, The Philadelphia Inquirer, August 18, 2022 (available at https://www.inquirer.com/opinion/editorials/pennsylvania-municipalities-water-sewer-utility-sal es-20220818.html).

[11] In 2019 the NAACP Legal Defense and Educational Fund issued a 104 page report titled "WATER/COLOR A Study of Race & the Water Affordability Crisis in America's Cities" which demonstrates the "disproportionate impact of rising water bills on Black communities." *See* https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

The Pennsylvania Office of Consumer Advocate (OCA) has conservatively estimated that cumulative impact of these acquisitions causes Pennsylvania ratepayers to pay an estimated $85 million[12] to $100 million[13] more per year specifically due to the "fair market value" pricing enabled by Act 12.[14]

Even in instances where the acquired public water or sewer system has deferred maintenance needs, selling to the likes of Essential or American Water to let them "fix" the problem is often not in the public interest. This is because public water and wastewater systems generally have a much lower cost of capital that IOUs like Essential or American Water. Public water and sewer systems can access low-interest municipal debt, and they do not have to account for income taxes or profits. IOUs like Essential an American Water enjoy no such benefits. The net result is that IOUs often borrow at twice the rates of public water and sewer systems. So, if a public water or sewer system needs to spend $50 million to fix deferred maintenance, it is typically far less expensive for the public utility to finance the work itself, rather than sell to the likes of Essential or American Water and let them borrow the same sum at twice the rate and pass those higher borrowing costs on to ratepayers.

Act 12 has deeply distorted these traditional economic incentives. Act 12 allows IOUs to offer purchase prices that are coercively high to public officials in charge of water and sewer

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[12] https://www.senatormuth.com/wp-content/uploads/2024/01/Patrick-Cicero-Testimony.pdf

[13] https://www.cityandstatepa.com/policy/2025/12/private-acquisition-municipal-water-system-under-new-spotlight-utility-giants-plan-merge/409833/

[14] PA lawmakers stall in reforming law that led to high water bills • Spotlight PA, https://www.spotlightpa.org/statecollege/2024/09/pennsylvania-legislature-act-12-private-water-companies-utility-bills-harrisburg/#:~:text=Act%2012%20allows%20investor-owned,by%20as%20much%20as%20166%25

systems. These public officials are then blinded by the promise of huge and very attractive short-term cash and they agree to sell to an IOU, a decision that local communities almost always come to quickly regret. This is not a bug of Act 12; it is a cleverly lobbied feature. Stated differently, it is a programmatic virus aimed at benefitting IOUs at the expense of ratepayers. The *intention* behind Act 12 was to allow IOUs like Essential and American Water to *legally bribe* public officials into selling their healthy and viable public water and sewer systems.

And to the extent that the Legislature understood that Act 12 would cause rates to go up, the point was that rates were only supposed to go up commensurate with the extra value the customers would receive from an Act 12 transaction. The intention was *not* for rates to go up independent of commensurate increased value to ratepayers. The Legislature did not intend Act 12 to be a vehicle for IOUs to raise rates and extract wealth from Pennsylvanian's without a corresponding benefit in services offered. It was never the Legislature's intention in Act 12 to force captive ratepayers to pay huge rate increases for essentially the same water or sewer service they were already receiving. But unfortunately, this is what has happened all too frequently since Act 12.

IV. In addition to inflated rates from Act 12, IOUs also charge higher rates to account for profits and income taxes; public utilities have none of these costs.

As for-profit businesses, IOUs like Essential and American Water must generate profits for shareholders and pay income taxes to the federal government. These two costs are significant. In a recent rate case, the PUC allowed Aqua to charge an extra 44% to cover profits and taxes. The PUC similarly allowed Pennsylvania American Water to charge 41% in profits

and taxes.[15] Indeed, in both instances, Aqua and Pennsylvania American Water were charging *more* for profits and taxes than they were for operating costs.

V. Act 12 has created the national impression that the PUC is a captured regulator, indeed the most captured in the United States.

Regulatory capture is when a government agency, meant to serve the public, instead starts acting in the best interest of the industry or special group it is supposed to regulate, often prioritizing commercial goals over public welfare, creating weaker rules, or hindering competition. This happens through lobbying, frequent interaction ("the revolving door" of industry to agency), and the industry's concentrated interest.

Here, the Legislature created the PUC to protect the public interest. Instead, especially but not exclusively because of Act 12, the PUC has for years been advancing the interests of the for-profit water and wastewater companies it regulates. The most glaring example is that the PUC has consistently approved almost every acquisition that Essential and Pennsylvania American have sought since the passage of Act 12, no matter how inflated the price. And then the PUC promptly approved Essential and Pennsylvania American's large rate increases, allowing those companies to shift the costs of inflated acquisitions from shareholders to customers. The PUC has approved many acquisitions of healthy viable public systems. The PUC has approved acquisitions in instances where there was significant public opposition. The PUC has even approved acquisitions where its own administrative law judge ruled that the acquisition was not in the public interest because the rate increases would be too sharp. This leads to the belief among industry commentators advising Wall Street investors that Pennsylvania is the place for IOUs to make even more money through acquisitions and rate

[15] https://www.keepwateraffordable.org/big-water-profits

increases because of the impression that the PUC no longer provides any meaningful check on the water and sewer IOUs it regulates.

VI. Investor-owned utilities and the analysts covering them frequently emphasize that Pennsylvania is a friendly regulatory environment conducive to profits.

Emphasizing how the PUC is a captured regulator, IOUs such as Essential and American Water, and Wall Street analysts covering these companies, frequently note that Pennsylvania is a "friendly" regulatory environment that is conducive to IOU growth and profits. Examples include:

- "North American Utility Regulatory Jurisdictions Update: Some Notable Developments," S&P Global, September 24, 2024, *available at* https://www.spglobal.com/ratings/en/regulatory/article/240924-north-american-utility-regulatory-jurisdictions-update-some-notable-developments-s13243527 (Regulatory Research Associates (RRA), part of S&P Global, views Pennsylvania's water utility regulation as generally "Above Average/2" (favorable) for investor-owned companies due to policies like Fair Market Value (FMV) laws (Act 12) facilitating acquisitions, robust infrastructure surcharges, and a history of constructive ratemaking);
- "Benefits of Private, PUC-Regulated Wate Utilities in Pennsylvania," by Charles River Associates, November 2023, page 7-8 *available at* https://www.pachamber.org/wp-content/uploads/2024/03/waterstudy.pdf#:~:text=This%20analysis%20excludes%20industrial%20and%20non-sewer%20wastewater,wastewater%20systems%20in%20Pennsylvania%20as

%20of%202022. (noting that Pennsylvania "enacted supportive legislation that has provided opportunities for privatization and consolidation");

- "Private acquisition of municipal water system is under a new spotlight as utility giants plan to merge," by Harrison Cann, City & State Pennsylvania, December 1, 2025, *available at* https://www.cityandstatepa.com/policy/2025/12/private-acquisition-municipal-water-system-under-new-spotlight-utility-giants-plan-merge/409833/#:~:text=Private%20eyes,of%20which%20are%20privately%20owned. (noting that even before the passage of Act 12, Pennsylvania "was already known among water companies and their shareholders as being industry-friendly", and that trend accelerated following Act 12's passage); and,
- "Small transactions maintain flow of water M&A in 2023," by Heike Doerr, S&P Global, January 18, 2024, *available at* https://www.spglobal.com/market-intelligence/en/news-insights/research/small-transactions-maintain-flow-of-water-ma-in-2023 (noting that Essential and American Water enjoy a particularly favorable regulatory environment in Pennsylvania following the passage of Act 12)..

In short, Essential and American Water – the companies the PUC regulates – are consistently bragging how "friendly" the PUC is to their business and profits. The PUC needs to vindicate itself in the eyes of the public by denying the current application and finally asserting itself as the backstop against IOU profit engineering on a large scale.

VII. The proposed merger of Essential and American Water is not in the public interest.

The proposed merger between American Water and Essential represents an unprecedented consolidation of the two largest private water and wastewater utilities in the United States. In Pennsylvania, where both companies hold dominant market shares, this transaction creates a "mega-monopoly" that serves corporate interests at the expense of the public.

Under the legal standard established in *City of York v. Pa. PUC,* an applicant must prove that a merger provides an "affirmative public benefit" that is substantial and specific. Here, the proposed merger offers no such benefit. To the contrary, the proposed merger poses significant harm.

First, the proposed merger will cause hundreds of thousands of Essential's ratepayers to suffer significant rate increases, without commensurate benefits, as they are moved to Pennsylvania American's even higher rates. For example, Aqua Wastewater's current monthly rate for the average residential home using 4,000 gallons per month is $103.09.[16] American charges $133.16 for the same residential service noted above.[17]

Second, the merger company could be "too big to regulate."[18] The merged company will have an expected market capitalization of $40 billion and operations in 17 states. As it is, the

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[16] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

[17] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

[18] https://aflcio.org/speeches/trumka-utility-workers-we-are-turning-point#:~:text=All%20across%20America%2C%20the%20story,starting%20to%20see%20the%20consequences. ("Corporate power is consolidating. CEOs have long since grown reckless and greedy. Just look at the utility industry. We have allowed relatively small companies to merge into giants that have become too big to regulate.")

PUC is already perceived as the most captured regulator in the country. That trend will only get worse if the PUC must contend with a mega-corporation with even greater resources. Relatedly, the operations of the merged company will be so vast, complex, and interconnected that it will be very complicated for the PUC to "ring fence" the merged company's operations in Pennsylvania. The proposed post-merger corporate structure is byzantine. And many of these subsidiaries will share certain joint corporate expenses and overhead. Will the PUC even be able to accurately calculate what corporate expense should be attributable to the post-merger company's Pennsylvania rate base, versus expenses from other states?

Third, the proposed merger will result in further erosion of local control. Customers of public water and sewer providers benefit from the fact that managers tend to live locally and thus are generally predisposed to being more responsive. Customers of Essential and American Water, by contrast, are at the mercy of corporate executives working out of distant headquarters. This problem will grow more acute if the merger is approved. Indeed, Essential and American Water have announced that their combined headquarters will be centralized in Camden, NJ, further distancing decision-makers from the local Pennsylvania communities they serve.

Fourth, the supposed "benefits" the merger promises are vague, generic, and illusory. The merger application talks of "enhanced scale" and "operational efficiency." But the application does not provide details about these generic claims. They are conclusions without supporting facts. Thus, there is no way to judge whether these generic claims are even true, and, if so, whether they benefit the public. Indeed, it is hard to imagine how a company as large as American Water actually needs to grow bigger to be "efficient." The PUC's function is to test the facts asserted in the merger application. But where the application provides no facts and

instead offers generic conclusions, there is nothing for the PUC to "evaluate." The application must simply be rejected.

VIII. The proposed merger will specifically harm CWA, for several reasons.

The proposed merger will specifically harm CWA, in several significant ways.

First, CWA is a ratepayer of DELCORA. Aqua is presently trying to acquire DELCORA. That sale will have a tremendous drawback if it ever closes: DELCORA's ratepayers will see their rates rapidly increase by at least 300% over an initial period of time and will continue to experience compounding rate hikes at a pace that they would have not experienced with DELCORA. This is because Aqua's current monthly rate for the average residential home using 4,000 gallons per month is $103.09.[19] DELCORA currently charges $33.28 per month for the same amount.[20] If Aqua acquires DELCORA, then DELCORA's ratepayers will eventually be forced onto Aqua's much higher rates. This problem became even more acute when Aqua announced in 2025 that Aqua was selling itself to American Water. American Water charges $133.16 for the same residential service noted above.[21] This is over 30% more than Aqua's already high rates and over **400%** more than DELCORA's rates. If American Water acquires Aqua, then the combined entity closes on the long-stalled acquisition of DELCORA, then DELCORA's ratepayers will eventually be moved to American Water's even higher rates.

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[19] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

[20] https://delcora.community.highbond.com/document/70c4a52d-f5bb-42b7-8959-7d5d0a4f8bf4/ (DELCORA bills at a flat rate of $8.32 per 1,000 gallons)

[21] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

Second, and related to the point above, the proposed merger will erode important ratepayer protections built into the Aqua-DELCORA deal. Specifically, the contract between Aqua and DELCORA states that it is not assignable to American Water without DELCORA's permission. If the PUC approves the merger between Essential and American Water, and then the DELCORA sale goes through anyway, the DELCORA will end up an asset of American Water. But this was never the deal that DELCROA bargained for. If DELCORA had wanted to sell itself to American Water, DELCORA could have directly negotiated that deal; DELCORA did not.[22]

Third, CWA has pending litigation against Aqua that could be compromised by the merger. Specifically, CWA is suing Aqua over Aqua's attempt to offer a $12 million "nonrefundable deposit" to the City of Chester if the City of Chester would agree to sell CWA to Aqua. This "nonrefundable deposit" was a payment by Aqua to circumvent any attempt at a public, competitive bidding process. Part of the relief CWA is seeking in that litigation is to have Aqua barred from participation in any future public bidding process for CWA. Will this potential liability flow to the merged company? Or will Aqua and American Water structure the transaction such that this liability gets shunted to some asset-less subsidiary corporation? To the extent that a Court orders that Aqua should be barred from participating in any future CWA bidding process, that prohibition must apply equally to any post-merger entity. The post-merger entity must not be allowed to dance around liability through machinations of corporate restructuring. However, the deal as presently structured gives CWA great concern that any order it obtains against Aqua will not be enforceable against the post-merger entity as a whole.

[22] See Exhibit A, attached hereto. This was a letter CWA recently sent to DELCORA further describing how CWA will be harmed by the proposed merger between Essential and American Water.

IX. These issues are too important to be rushed, and the short timeframe the PUC has allowed for public protest suggests that the PUC is not really interested in receiving any meaningful opposition.

The proposed merger is of massive importance to the Commonwealth of Pennsylvania and the hundreds of thousands of residents and businesses who are captive ratepayers for these companies. Yet, the PUC only opened the timeframe for public protests and intervention from December 1 to December 29, 2025. This is less than 30 days, occurring over a holiday period when many people are off from work. The practical result is that Pennsylvanians who may wish to comment on or participate in this proceeding may be unable to do so simply because of rushed and holiday period timing.[23] The PUC should reopen the period for public protest and applications to intervene for at least 60 more days in January and February 2026. While Essential and American Water want expedited consideration, the PUC's job, first and foremost, is to protect the public interest. It is not in the public interest to have a transaction of such significance be evaluated in a rushed manner and without sufficient public comment and participation.

X. Conclusion.

The PUC should reject the proposed merger application, because it is not in the public interest. The proposed merger offers no concrete public benefits, but it will cause considerable public harm. The PUC must not allow Essential and American Water to merge into a mega-corporation with market dominance. Now is the chance for the PUC to show the country that it is not the captured regulator that Essential and American Water so often boast about. Now is the

[23] *See* Letter from State Rep. John Lawrence to PUC, dated December 27, 2025, attached as Exhibit B (noting that the 30-day public protest and comment period over the holidays is too short for a proposed merger that is this consequential).

chance for the PUC to show that it is not simply a rubber stamp for IOUs and their shareholders. The PUC must stand up for Pennsylvanians.

Respectfully submitted,

Dated: December 29, 2025

By: /s/ Joseph W. Jesiolowski

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BEFORE THE PENNSYLVANIA PUBLICY UTILITY COMMISSION

Joint Application of American Water Works Company, Inc., Essential Utilities, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC and Peoples Gas Company LLC and Alpha Merger Sub, Inc. for a Certificate of Public Convenience under Sections 1102(a)(3) and 2210(c) of the Public Utility Code and All Other Necessary Approvals to Effect a Change of Control of Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., and Peoples Natural Gas Company LLC	Docket Nos. A-2025-3058927 A-2025-3058928 A-2025-3058929

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

VIA EMAIL ONLY

The Honorable Charles E. Rainey, Jr.
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Respectfully submitted,

Dated this 29th day of 2025.

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Exhibit A

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December 19, 2025

To all members of DELCORA Board of Directors[1]
c/o Executive Director
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Phone: 610-876-5523
willertr@delcora.org

RE: DELCORA must oppose Aqua's plan to merge with American Water

Dear DELCORA Board of Directors:

I. Introduction.

As you know, in 2019 DELCORA entered into a contract, called an Asset Purchase Agreement, whereby DELCORA agreed to sell itself to Aqua. It has been six years since then, and the sale still has not closed. In that intervening time, all the reasons that DELCORA gave to justify the sale are now moot. First, the "tunnel project" DELCORA was hoping to avoid by selling is now not needed. Second, the idea that a sale would help DELCORA avoid an expensive contract renewal with the Philadelphia Water Department is now moot; DELCORA renewed the contract in 2023 on very favorable terms. And third, the "rate stabilization trust" that Aqua and DELCORA touted to temporarily keep rates low following a sale – a key promise made to protect ratepayers – is illusory and not enforceable by contract.

On the other hand, the sale will have a tremendous drawback if it ever closes: DELCORA's ratepayers will see their rates rapidly increase by at least 300% over an initial period of time and will continue to experience compounding rate hikes at a pace that they would have not experienced with DELCORA. This is because Aqua's current monthly rate for the average residential home using 4,000 gallons per month is $103.09.[2] DELCORA currently charges $33.28 per month for

[1] Kindly distribute a copy to all members of the DELCORA Board of Directors.

[2] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

the same amount.[3] If Aqua acquires DELCORA, then DELCORA's ratepayers will eventually be forced onto Aqua's much higher rates.

This problem became even more acute when Aqua announced in 2025 that Aqua was selling itself to American Water. American charges $133.16 for the same residential service noted above.[4] This is over 30% more than Aqua's already high rates and over **400%** more than DELCORA's rates. If American acquires Aqua, and then the combined entity closes on the long-stalled acquisition of DELCORA, then DELCORA's ratepayers will eventually be moved to American's even higher rates.

Given all of the above, it is difficult to see how closing on a sale of DELCORA is in the public interest at this point. Your ratepayers will be forced to pay substantially more for essentially the same level of service, compounding the pressure of other rising utility costs across the Commonwealth and two recent double-digit tax increases in Delaware County.

Additional harm will fall on DELCORA's customers because, instead of being governed by a Delaware County–appointed public board, they will be subject to a state regulated private monopoly whose core duty is to deliver steady earnings and executive compensation growth to shareholders—costs that are ultimately recovered through their monthly bills.

You, as DELCORA board members, are charged with operating this system as an efficient, non-profit municipal entity in the public interest; by contrast, an investor-owned acquirer would be legally structured and financially incentivized to run DELCORA as a profit maximizing enterprise.

However, the proposed merger between Aqua and American presents DELCORA with a unique opportunity. There is a provision in the 2019 Asset Purchase Agreement that prohibits Aqua from assigning that contract to American. There is also a provision that allows DELCORA to cancel the 2019 Asset Purchase Agreement if there is a "material adverse event" before closing. The fact that DELCORA's customers will have to eventually pay American's even higher rates, which are 30% more than Aqua's, constitutes a "material adverse event" that DELCORA never bargained for. The fact that Aqua has not been able to close on the sale for six years and counting also constitutes a "material adverse event."

Will DELCORA invoke any of these provisions and cancel the 2019 Asset Purchase Agreement?

Will DELCORA file a protest with the Pennsylvania Public Utility Commission, which is presently accepting public comment on the Aqua-American merger?

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[3] https://delcora.community.highbond.com/document/70c4a52d-f5bb-42b7-8959-7d5d0a4f8bf4/ (DELCORA bills at a flat rate of $8.32 per 1,000 gallons)

[4] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

Chester Water Authority is a ratepayer of DELCORA and also the entity responsible for shutting off water for DELCORA's ratepayers who are in arrears on their sewer bills. If Aqua or American is successful at acquiring DELCORA, CWA will no longer be involved in the shut of process. Your former customers will have to resolve their issues with either a for-profit company or the Public Utility Commission and will no longer be able to address their issues with a local municipal authority like DELCORA or CWA. CWA believes that DELCORA should be prudent and act in the public interest and should take these steps to cancel the long-stalled sale to Aqua and instead keep DELCORA in public hands. A rate increase of 300% or more is not in the public interest of DELCORA's ratepayers.

II. Executive summary.

In 2019, DELCORA proposed to sell itself to Aqua. DELCORA's sale would mean massive rate increases for ratepayers as they are involuntarily shifted from DELCORA's lower rates to Aqua's much higher rates. Ratepayers would get no commensurate benefit in service, but Aqua's shareholders would enjoy huge profits off the backs of DELCORA's ratepayers.

The proposed sale ignited a firestorm of public outcry and opposition. Litigation surrounding the proposed sale has dragged on for six years now, and the proposed sale has yet to close.

Now, Aqua has announced a plan to be acquired by American Water. American Water's rates are 30% higher than Aqua's already massive rates. If that merger goes through, American Water will take over Aqua's long-stalled attempt to close on the acquisition of DELCORA. If that acquisition succeeds, DELCORA's ratepayers will end up paying American Water's even higher rates.

Aqua's acquisition of DELCORA was already against the public interest given Aqua's much higher rates. The public interest problems are now magnified given that it will be American's even higher rates that ratepayers will pay if the sale of DELCORA closes.

However, American Water's acquisition of Aqua now presents DELCORA with an opportunity to cancel the long-stalled purchase agreement DELCORA ill-advisedly entered with Aqua in 2019 and walk away from a deal that clearly makes no sense.

III. Background on DELCORA.

A. DELCORA's system.

Delaware County residents and businesses generate millions of gallons of wastewater every day. This wastewater must be collected, conveyed, and treated in a safe, effective way that prevents the contamination of streams, rivers, and general water supply. DELCORA, the Delaware County Regional Water Quality Control Authority, has been providing this vital function to its local communities for over four decades. Serving as a municipal authority, DELCORA, owns, operates, and maintains wastewater facilities that serve approximately half a million people, including 46 municipalities in Delaware and Chester Counties. DELCORA collects and conveys an average

daily wastewater flow of approximately 60 million gallons per day with an instantaneous peak flow of approximately 200 million gallons per day.[5]

B. The 2015 Consent decree with the EPA, known as the Long-Term Control Plan.

DELCORA has a "combined" sewer system. DELCORA offers the following explanation for what this means:

> Combined sewer systems are sewers that are designed to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipe. Most of the time, combined sewer systems transport all of their wastewater to a sewage treatment plant, where it is treated and then discharged to a water body. During periods of heavy rainfall or snowmelt, however, the wastewater volume in a combined sewer system can exceed the capacity of the sewer system or treatment plant. For this reason, combined sewer systems are designed to overflow occasionally and discharge excess wastewater directly to nearby streams, rivers, or other water bodies.
>
> These overflows, called combined sewer overflows (CSOs), contain not only stormwater but also untreated human and industrial waste, toxic materials, and debris. They are a major water pollution concern for the approximately 772 cities in the U.S. that have combined sewer systems.

DELCORA website, https://www.delcora.org/combined-sewer-systems/.

In 2015, DELCORA entered into a consent decree with the U.S. EPA to ameliorate pollution from DELCORA's CSOs. This is known as DELCORA's "Long-Term Control Plan."[6]

C. DELCORA's Eastern and Western Service Areas and the interplay with the Long-Term Control Plan.

DELCORA has two different service areas: the Eastern and Western service areas.[7] DELCORA pumps wastewater flow from the Eastern Service Area to a treatment plant that the Philadelphia Water Department owns near Philadelphia International Airport. DELCORA has a long-term contract with PWD for this service. DELCORA pumps wastewater flow from the Western Service Area to a treatment plant that DELCORA owns along the Delaware River in Chester, PA.

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[5] https://www.delcora.org/about-us/delcora/

[6] https://www.delcora.org/combined-sewer-systems/delcora-cso-ltcp/#:~:text=The%20Long%20Term%20Control%20Plan,and%20implementation%20of%20the%20controls

[7] https://www.delcora.org/combined-sewer-systems/cso-areas/

When DELCORA entered into the consent decree in 2015, DELCORA's contract with the PWD was set to expire in 2028. As DELCORA considered its options for complying with the consent decree, apparently, in 2018 DELCORA inquired with the PWD about the cost to renew the treatment contract for an additional term. PWD apparently responded that the rates PWD would charge DELCORA would go up substantially in an additional contract term after 2028.

Faced with the prospect of these increasing costs, DELCORA considered an option that involved not renewing the contract with PWD. This would mean that DELCORA would have to divert the flows from the Eastern service area to DELCORA's Western Regional Treatment Plant, where DELCORA was already treating flows from the Western service area. DELCORA would also have to greatly expand the capacity for the WRTP to handle these additional flows. In addition, to mitigate CSOs, DELCORA would build enormous 14-foot diameter tunnels underground to handle excess flows during rainstorm events. During such events, excess flows would be retained in the tunnels, rather than discharged into the Delaware River, until the WRTP could "catch up" and treat the retained flows when capacity is available.

D. In 2019, DELCORA's agrees to sell itself to Aqua rather than construct the "tunnel project" or renew with the PWD.

The "tunnel project" was projected to be enormously expensive. In 2018, renewing the contract with PWD also appeared to be excessively expensive, based on the renewal rates PWD quoted at the time.

Rather than bear either of these expenses or come up with more practical, sustainable, palatable and affordable options, DELCORA's Board instead made the surprising decision to sell DELCORA to Aqua Pennsylvania Wastewater, Inc. On September 17, 2019, DELCORA and Aqua entered into an Asset Purchase Agreement whereby DELCORA agreed to close on a sale of its assets to Aqua.[8]

This expense of the "tunnel project" or the alternative expense of renewal with PWD were the principal public justifications DELCORA's Board provided when they decided to sell DELCORA to Aqua. In short, the DELCORA Board said that Aqua would be better positioned to handle whatever work would be necessary to comply with DELCORA's long-term control plan.

E. The announcement of DELCORA's sale to Aqua ignites a firestorm of opposition.

The announcement of DELCORA's sale generated enormous local opposition.

One aspect of this opposition was legal challenges to the sale itself. DELCORA, Delaware County, and Aqua sued each other multiple times to either block or proceed with closing on the sale.

Another aspect of the local opposition was directed at the "tunnel project." Local municipalities and citizens vigorously opposed the disruptions that such large construction would cause in their streets and on their properties. They spoke out at meetings and refused to cooperate

[8] https://www.puc.pa.gov/pcdocs/1682281.pdf

with providing necessary easements for project construction. The strength of this local opposition was so great that in the summer of 2023, DELCORA announced that it was abandoning the "tunnel project" and renewing another contract with PWD. DELCORA's decision to renew with PWD was also aided by the fact that PWD provided drastically lower rate projections for a renewed contract than the projections PWD originally offered to DELCORA in 2018. In sum, the "tunnel project" is now dead.

Another aspect of local opposition centered on the dramatically increased rates that Aqua would charge DELCORA's ratepayers. Aqua's current monthly rate for the average residential home using 4,000 gallons per month is $103.09.[9] DELCORA only charges $33.28 per month for the same amount.[10] If Aqua acquires DELCORA, then DELCORA's ratepayers will eventually be forced onto Aqua's much higher rates.

This problem became even more acute when Aqua announced in 2025 that Aqua was selling itself to American Water. American charges $133.16 for the same residential service noted above.[11] This is over 30% more than Aqua's already high rates. If American acquires Aqua, and then the combined entity closes on the long-stalled acquisition of DELCORA, then DELCORA's ratepayers will eventually be moved to American's even higher rates.

F. DELCORA and Aqua promised a temporary "rate stabilization trust" to mask the rate pain, but the trust is an illusion.

When DELCORA announced in 2019 that it planned to sell itself to Aqua, both DELCORA and Aqua attempted to mollify public opposition by promising a temporary "rate freeze" to mask the pain of the inevitable massive rate increases that Aqua would impose. Specifically, DELCORA and Aqua stated that any proceeds from the sale of DELCORA would be placed into a trust fund that would be used to offset any Aqua rate increases. This would temporarily "stabilize" the rates that customers would pay, until the trust fund inevitably runs out.

To understand how this works, it is first necessary to provide some background on how public utilities went from servicing the public to being a tool for private entities to turn profits at the expense of the public. The Pennsylvania Legislature first created Municipal Authorities in 1935. These Authorities were created primarily to facilitate the financing and public ownership of public utilities such as water and sewer systems, airports, etc., which are essential to provide necessary public services. The Authorities operate as not-for-profit entities focused solely on providing essential services to the public. The structure and nature of the Authorities have allowed them to operate without influences from corporate entities for decades.

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[9] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

[10] https://delcora.community.highbond.com/document/70c4a52d-f5bb-42b7-8959-7d5d0a4f8bf4/ (DELCORA bills at a flat rate of $8.32 per 1,000 gallons)

[11] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

However, in 2016, the Pennsylvania Legislature passed a bill known as Act 12 (66 Pa.C.S.A. § 1329) that allows private, investor-owned utilities to purchase public municipal water and wastewater systems at an inflated "fair market" price and then recoup the sale price *and a profit* from the public by raising rates. Although Act 12 requires that the sought-after water and wastewater systems be appraised to determine a baseline for the value of the systems, the appraisals are done in accordance with a non-traditional inflated valuation method known as "fair market value." The supposed "fair market value" appraisal approach yields inflated appraised values far above the traditional metric of valuing a system based on its original cost less depreciation.

The investor-owned utilities then offer this inflated "fair market value" price to local government officials, hoping the promise of even larger sums will entice them into selling water and wastewater systems that are in strong operational and financial shape. To sweeten the deal, investor-owned utilities often promise to "freeze" any rate increases for a few years, meaning that the real rate pain will only hit once the government officials who vote to sell are no longer in office.

This egregious tactic is essentially a smoke screen that results in government officials becoming blinded by the promise of enormous short-term cash infusions and the promise of no short-term rate increases. This smoke screen has proven very effective at causing elected officials to increasingly agree to sell the operationally and financially healthy water and wastewater systems they oversee, only to then face the wrath of their constituents when rates rise very rapidly.

Investor-owned utilities are glad to offer more money for the systems they acquire since they get it back in permanently increased rates, plus a very lucrative year-over-year profit. Specifically, following a sale Act 12 *requires* that the Pennsylvania Public Utility Commission authorize the acquiring investor-owned utility to raise its rates to recoup the inflated "fair market value" acquisition price *plus* a profit margin. Thus, as soon as they are able following an acquisition, the investor-owned utilities raise rates sharply. Act 12 has thus created a no-lose situation for the investor-owned utilities and distorted traditional market dynamics so profoundly that these for-profit businesses are racing each other to actually pay *more*.

The losers in these acquisitions are the ratepayers, of course. There is often a public outcry when the investor-owned utilities quickly move to raise rates following acquisitions, with the newly acquired customers feeling duped by the "rate freeze" promises.[12] Indeed, the local governments quickly regret their short-sighted decision to sell healthy public water and wastewater systems.[13] But it is too late. The furious local customers are now saddled with enormous and unnecessary rate increase *forever*.

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[12] "Limerick residents oppose 90% sewer rate hike by Aqua PA," by Evan Brandt, The Times Herald, September 16, 2021 (available at https://www.timesherald.com/2021/09/16/limerick-residents-oppose-90-sewer-rate-hike-by-aqua_-pa/).

[13] "Towns sell their public water systems — and come to regret it," by Elizabeth Douglas, The Washington Post, July 8, 2017 (available at https://www.washingtonpost.com/national/health-

Recognizing that Act 12 has created a no-lose situation for them, investor-owned utilities have gone on a buying spree in Pennsylvania over the last nine years. Indeed, as an editorial in The Philadelphia Inquirer stated, "residents saddled with hefty water and sewer bill increases can thank lawmakers in Harrisburg for unleashing the frenzy of for-profit water companies buying up local systems."[14]

The effects of Act 12 on the public can be seen across Pennsylvania. Aqua recently purchased municipal water and wastewater systems in Limerick Township, New Garden, East Norriton, Cheltenham and East Bradford. Ratepayers in all five towns have seen dramatic early increases in their bills that are continuing to rapidly climb: Limerick Township – up 98%, New Garden – up 90%, East Norriton – up 73%, Cheltenham – up 69% and East Bradford – up 47%.[15] Further, significant rate increases are inevitable as companies like Aqua need to generate the profits required to service their acquisition debt and provide shareholder value. Sometimes, the negative effects on the public are often masked behind discount programs or deferred rate increases. For example, York County's public wastewater system was recently sold to Pennsylvania American Water. The deal prohibits American Water from raising rates for three years, but after that, rates can go up by almost 50%.[16]

These rate increases have a significant and disproportionate impact on low-income communities of color. Many observers, including the NAACP, have documented this phenomenon and accordingly labeled water and wastewater privatization as a form of "environmental racism."[17]

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science/towns-sell-their-public-water-systems--and-come-to-regret-it/2017/07/07/6ec5b8d6-4bc6-11e7-bc1b-fddbd8359dee_story.html).

[14] "As Pa. municipalities sell water systems to for-profit companies, consumers are left paying the price," by The Editorial Board, The Philadelphia Inquirer, August 18, 2022 (available at https://www.inquirer.com/opinion/editorials/pennsylvania-municipalities-water-sewer-utility-sales-20220818.html).

[15] "Aqua Pa. details its steep rate increase and hits sewer users the hardest," by Andrew Maykuth, The Philadelphia Inquirer, May 24, 2022 (available at https://www.inquirer.com/business/aqua-pennsylvania-rates-water-wastewater-20220525.html). Since this article was published in 2022, the rates have increased even further.

[16] "As Pa. municipalities sell water systems to for-profit companies, consumers are left paying the price," by The Editorial Board, The Philadelphia Inquirer, August 18, 2022 (available at https://www.inquirer.com/opinion/editorials/pennsylvania-municipalities-water-sewer-utility-sales-20220818.html).

[17] In 2019 the NAACP Legal Defense and Educational Fund issued a 104 page report titled "WATER/COLOR A Study of Race & the Water Affordability Crisis in America's Cities" which demonstrates the "disproportionate impact of rising water bills on Black communities." *See* https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

Sticking to the well-worn script, Aqua and DELCORA promised a "rate stabilization trust" when they first announced their deal in 2019. But the promise was illusory and unenforceable. The actual contract between Aqua and DELCORA did not include any provisions making the "rate stabilization trust" enforceable.[18] It was simply an illusory promise Aqua and DELCORA made to deflect bad PR in 2019 that followed the aforementioned "smoke screen" playbook of investor-owned utilities.

Moreover, litigation immediately ensued over the unenforceability of the "rate stabilization trust." That litigation involved DELCORA, Aqua, and Delaware County. That litigation was convoluted and the results muddled. But it seems that even if the trust was enforceable by contract – which it is not – it is unclear if the Courts would even allow the trust to proceed.

IV. Circumstances have changed significantly since 2019, and it would now be unjustifiable for DELCORA to close on a sale of itself.

The principal justifications that DELCORA's Board gave in 2019 to justify the sale to Aqua are now all dead or moot.

The expensive and disruptive "tunnel project" that DELCORA was so worried about is dead.

DELCORA's contract with PWD – which DELCORA originally thought could only be renewed at much higher rates – has been renewed for a very reasonable price, which has been locked in for many years to come following 2028.

The "rate stabilization trust" that DELCORA and Aqua promised is dead.

And, perhaps most significantly, Aqua has announced its own plans to sell itself to American. That means that if the DELCORA sale closes, DELCORA will eventually come under American's umbrella. And American's rates are 30% higher than Aqua's already very high rates.

Given these dramatically changed circumstances from 2019, there is no reasonable or rational justification or supportive reason for closing on the sale of DELCORA.

V. DELCORA now has an opportunity to walk away from the 2019 deal, and DELCORA should take it.

The 2019 Asset Purchase Agreement between Aqua and DELCORA contains a clause stating that Aqua cannot assign the contract without DELCORA's consent.[19] This clause prevents Aqua from assigning the 2019 Asset Purchase Agreement to American without DELCORA's consent.

The 2019 Asset Purchase Agreement also contains a provision allowing DELCORA to cancel the contract if Aqua suffers a "material adverse event" prior to closing. *Id.* at Section 12.05.

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[18] https://www.puc.pa.gov/pcdocs/1682281.pdf

[19] https://www.puc.pa.gov/pcdocs/1682281.pdf (Section 15.09).

The Aqua-American merger likely constitutes such a "material adverse event" because American's rates, which DELCORA's customers will eventually have to pay, are over 30% higher than Aqua's already high rates. In other words, the Aqua-American merger is tantamount to a bait-and-switch from the perspective of DELCORA and its ratepayers, with a further 30% rate increase that DELCORA never bargained for and never expected. Indeed, had DELCORA been comfortable with American's stupendously high rates in 2019, DELCORA could have made a deal directly with American, instead of Aqua. DELCORA did not. And DELCORA's ratepayers should not be backdoored into an even higher rate structure than the already high one DELCORA's board originally thought it contracted for.

Aqua's inability to close on the 2019 Asset Purchase Agreement for six years and counting is another "material adverse event." Surely, DELCORA never would have entered the 2019 Asset Purchase Agreement in the first place if DELCORA knew that it would take Aqua more than six years to close. This is especially true since, in the intervening six years since 2019, all the major justifications for the DELCORA acquisition are now moot or dead.

VI. Our questions for you.

Is DELCORA informing Aqua and American of the positions above and stating that DELCORA now considers the 2019 Asset Purchase Agreement to be cancelled and of no further effect?

Will DELCORA file an official protest with the Pennsylvania PUC informing it of the same? The PUC is currently accepting public comment and protests on the proposed Aqua-American transaction until December 29, 2025, and so DELCORA should act quickly to make its voice heard.

Thank you for your time and consideration.

Chester Water Authority Board of Directors

/s/ Noel Brandon

By: Noel Brandon, Board Chair

Exhibit B

JOHN A. LAWRENCE
STATE REPRESENTATIVE
13TH LEGISLATIVE DISTRICT

HOUSE OF REPRESENTATIVES
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Chairman Stephen DeFrank
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Comments on Docket #A-2025-3058927

December 27, 2025

Dear Chairman DeFrank –

I write concerning the aforementioned docket number regarding the proposed merger between American Water Works and Essential Utilities.

First, please note that I intend to submit comments regarding this proposal during the anticipated comment period.

Second, I am deeply troubled by the Commission's decisions surrounding the filing period for formal protests and petitions on this matter.

The Commission provided less than thirty days during the month of December to submit formal protests and petitions on this matter – a few weeks at the end of the year when many are otherwise engaged with Hanukkah, Christmas, and other year-end celebrations. The proposal is not inconsequential; it concerns a proposed merger that affects a significant percentage of water and wastewater ratepayers across the Commonwealth.

The Commission has adopted the following mission statement:

> *The mission of the Pennsylvania Public Utility Commission is to balance the needs of consumers and utilities; ensure safe and reliable utility service at reasonable rates; protect the public interest; educate consumers to make independent and informed utility choices; further economic development; and foster new technologies and competitive markets in an environmentally sound manner.*[1]

[1] https://www.puc.pa.gov/about-the-puc/

The proposed merger will undoubtedly concern "*safe and reliable utility service at reasonable rates.*" Providing less than thirty days over the December holidays for formal protests and petitions is hardly indicative of "*protecting the public interest,*" nor is it considerate of the "*needs of consumers,*" nor will it help "*educate consumers to make independent and informed utility choices.*" That the Commission chose to schedule a matter of such gravity and public interest in this manner, and in contravention of the Commission's own mission statement, is of serious concern to me.

I appreciate this opportunity to offer these comments to the Commission.

Sincerely –

John Lawrence
State Representative
Commonwealth of Pennsylvania