



VIA E-FILING

February 7, 2019

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**RE: Reply Comments of Aqua Pennsylvania, Inc. to Pennsylvania American Water Company's Supplemental Comments
Implementation of Section 1329 of the Public Utility Code
Tentative Supplemental Implementation Order
Docket No. M-2016-2543193**

Dear Secretary Chiavetta:

Enclosed please find the Reply Comments of Aqua Pennsylvania, Inc. to Pennsylvania American Water Company's Petition For Leave To File Supplemental Comments On The Pennsylvania Public Utility Commission's September 20, 2018 Tentative Supplemental Implementation Order concerning the implementation of Section 1329 of the Public Utility Code.

If you have any questions regarding this filing, please contact me at 610-645-1130.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alexander R. Stahl".

Alexander R. Stahl
Regulatory Counsel

Enclosure

cc: Certificate of Service
Shaun Sparks, Pennsylvania Public Utility Commission, Law Bureau (Word Document via email)

VIA FIRST CLASS MAIL

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Alexander R. Stahl

Dated: February 7, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Section 1329 of the : Docket No. M-2016-2543193
Public Utility Code :

Reply Comments of Aqua Pennsylvania, Inc.

to

Pennsylvania American Water Company's Supplemental
Comments

Dated: February 7, 2019

The Company provided comments to the TSIO on November 5, 2018, reply comments on November 20, 2018, and now provides reply comments to PAWC's supplemental comments on the TSIO in the above docket.

II. REPLY COMMENTS TO PAWC'S SUPPLEMENTAL COMMENTS

As an initial matter, the Company would again note that the Company has filed a Petition for Allowance of Appeal to the Pennsylvania Supreme Court concerning the decision of the Commonwealth Court in *McCloskey v. Pa. P.U.C.*, 1624 C.D. 2017 (Pa. Commw. Ct. Oct. 11, 2018) (hereinafter "*McCloskey*"). See *McCloskey v. Pa. P.U.C.*, 743 MAL 2018. The Supreme Court has not yet ruled on this petition. The Company respectfully maintains at this time that the Commonwealth Court's conclusion that individual customer notice under the notice requirements of base rate case proceedings at 52 Pa. Code § 53.45 was in error.

However, the Company recognizes that a compromise may be reached to facilitate 1329 applications filed during the pendency of Aqua's Petition for Allowance of Appeal. The Company is not waiving any arguments that may be raised if the Supreme Court accepts the Company's petition. The Company agrees with PAWC that the Commission should revisit any customer notice requirements that may result from the Commission's TSIO should *McCloskey* be overturned or modified.

The Company would initially note that the procedural issues being raised concerning notice will impact multiple municipal transactions under 1329 in 2019. The Company is in general agreement with PAWC's proposed compromise that would allow customers to receive notice that an application under 1329 is filed, and for customers who wish to receive further information, customers may contact the utility for a statement of reasons. Aqua is not proposing

any edits to the proposed Customer Notice or the Statement of Reasons and Bill Impact documents provided as Appendix A and B to the PAWC Petition.

The Company does have concerns surrounding the process of notice as it relates to the timing of acceptance of an application with the Commission. In PAWC's Exeter Application and Steelton Application, the Commission conditionally accepted the applications directing PAWC to provide individualized notice to customers along with the traditional newspaper notification, then file a proof and verification of such notice with the Commission.¹ Under the Company's reading of these Secretarial Letters, after a verification for the individualized notice and proof of publication for the newspaper notice are filed with the Commission, the Commission will fully accept the application and the 6-month statutory period will begin at that point in time. The Company respectfully requests that the Commission consider that this procedure will add substantial time outside the application proceeding that was originally envisioned to be 6 months.

A utility will generally have two options to provide notice to customers: (1) through direct mailing to customers, or (2) through a page added to a customer's bill (a bill stuffer). First, as discussed in Aqua's Comments to the TSIO, a direct mailing will add substantial costs to each proposed transaction. While the Company would be able to complete a direct mailing

¹ See *Application of Pennsylvania-American Water Company under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of the Township of Exeter's assets, properties and rights related to its wastewater collection and treatment system to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in portions of the Township of Exeter, and in portions of Alsace and Lower Alsace Townships, to one bulk service interconnection point with Alsace Township, and to four bulk service interconnection points with St. Lawrence Borough, Berks County, Pennsylvania*, Docket No. A-2018-3004933, Secretarial Letter at 1 (Dec. 19, 2018) ("Exeter Application"), see also *Application and related filings of Pennsylvania-American Water Company under Sections 507, 1102(a) and 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 507, 1102(a), 1329, for approval of its acquisition of water system assets of the Steelton Borough Authority, related water service rights, fair market valuation ratemaking treatment, deferral of the post-acquisition improvement costs, and certain contracts with municipal corporations*, Docket No. A-2019-3006880, Secretarial Letter at 1-2 (Jan. 17, 2019) ("Steelton Application").

soon after the application is conditionally accepted, the Company would have to complete the newspaper publication requirement and file proofs of that publication with the Commission before the application can be fully accepted. The newspaper notification has generally been provided after an application is accepted and the proceeding has been initiated. Moreover, the Commission usually directs the form of newspaper notice via a Secretarial Letter. The Company did not see a form of notice provided in either the Exeter Application or the Steelton Application. Additionally, the Company would not be able to provide a date certain for the deadline of filing a complaint in either the individualized notice or the newspaper notice.

The Company notes that with the current 10 business day acceptance period, the timing of getting the notice into newspapers (as some newspapers are not published every day), and the timing to get affidavits back from those newspapers, file them with the Commission, and await subsequent acceptance, this process will add upward of 4 weeks outside the 6-month statutory process.

The second option would be for a utility to include an additional page to customers' bills that would be sent out during the utility's billing cycle. If the Commission proposes that the entire billing cycle must run before verification can be filed that the notice has occurred, this will add upwards of four or more weeks outside the statutory 6-month process. The issues stated for newspaper notification would similarly apply to a bill stuffer as set forth above under the paragraphs discussing a direct mailing.

For this reason, the Company respectfully requests that the Commission should consider fully accepting an application under a direct mailing approach when the Company files a verification stating that the direct mailing has occurred, then direct the newspaper publication as has typically been done in prior application proceedings. The Company will then be able to

provide a date certain, approximately 30 days after the direct mailing occurs, for when complaints should be filed.

For a bill stuffer approach, the Company respectfully requests that the Commission should consider fully accepting an application when the utility files a verification that the utility has begun providing bill inserts under its billing cycle, then direct newspaper publication as has typically been done in prior application proceedings.

Finally, concerning newspaper publication, the Company respectfully requests the Commission clarify the phrase “area involved” as set forth in the Exeter Application and Steelton Application’s Secretarial Letters for a utility providing notice in a newspaper of general circulation. The Company interprets publication of a newspaper of general circulation *in the area involved* to mean in the requested service territory, as opposed to the Company’s entire service territory. As stated above, the Company serves approximately 435,000 water customers and 24,000 wastewater customers across 32 counties. Coordinating notice in newspapers across the Company’s entire footprint will add substantial time to each application proceeding.

III. CONCLUSION

Aqua appreciates the opportunity to provide reply comments to PAWC's Supplemental Comments on the Tentative Supplemental Implementation Order and asks that the Commission consider its reply comments. Aqua looks forward to continuing to work with the Commission on these issues. Please direct any questions with regard to these comments to the undersigned.

Respectfully submitted,



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Dated: February 7, 2019