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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**FEB 17 2012**

**PENNSYLVANIA PUBLIC UTILITY  
COMMISSION**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**v.**

**DOCKET NO. R-2011-2267958**

**AQUA PENNSYLVANIA, INC.**

**AQUA PENNSYLVANIA, INC.'S ANSWER TO THE MOTION OF  
ROBERT W. CURTIUS TO DISMISS OBJECTIONS AND  
COMPEL ANSWERS TO INTERROGATORIES**

Pursuant to 52 Pa. Code § 5.342(g)(1) and the February 3, 2012 Prehearing Order, Aqua Pennsylvania, Inc. ("AP" or the "Company") submits this Answer in opposition to the Motion to Dismiss Objections and Compel Answers to Interrogatories ("Motion to Compel") served by Robert W. Curtius on February 14, 2012. Copies of the Interrogatories and Objections at issue were provided in a separate transmittal on February 15, 2012.

**I. INTRODUCTION AND OVERVIEW**

On January 27, 2012, Mr. Curtius served on the Company a set of 25 separately-numbered interrogatories. After discussing the discovery requests with Mr. Curtius at the January 30, 2012 Prehearing Conference (and believing that it had reached an agreement with Mr. Curtius regarding the scope of the data to be provided),<sup>1</sup> the Company, as a precautionary matter, filed Objections to Mr. Curtius' Interrogatories 1-2, 4-6, 8, 10-15, 17 and 25 on February 6, 2012 on the grounds that the Interrogatories sought information for an historic 20-year period that is not relevant to the matters at issue in this base rate proceeding and that production of such data would be unduly burdensome. At the same time, the Company, in its Objections, made it

<sup>1</sup> As the Company noted in its Objections (p. 1), AP, in fact, believed that an amicable resolution might be achieved.

clear that it would be providing Mr. Curtius with extensive current and historic data which, to the extent available, would allow him to quantify the growth of the Company over that 20-year period. And so, notwithstanding the pendency of its Objections, AP, on February 13, 2012, served its answers to the Interrogatories propounded by Mr. Curtius, including the specific interrogatories that were the subject of its Objections.

The focus of the Motion to Compel is the 20-year time period for which data was requested by Interrogatories 1-2, 4-6, 8, 10-15, 17 and 25. The Motion to Compel does not, however, otherwise challenge the adequacy of the Company's answers to the Interrogatories. For the reasons set forth below and in AP's Objections, the Motion to Compel should be denied and AP's Objections should be sustained.

## **II. RESPONSE TO THE MOTION TO COMPEL WITH REGARD TO AP'S SPECIFIC OBJECTIONS**

### **A. Interrogatory No. 1**

Mr. Curtius broadly contends that because data analyzed over short periods of time includes spikes and valleys that distort the information, he is entitled to information for an historic 20-year time period. For the reasons set forth below, the Company disputes that contention.

Interrogatory No. 1 provides as follows:

Request you provide the total number of feet of water pipes owned by Aqua within the State of Pennsylvania, on December 31 in each of the last 20 years (1991-2011).

In its response to Interrogatory No. 1, AP specified the number of feet of water pipes owned by AP in 2011 and provided AP's Water Main Renewal Program ("Program") filed with

the Commission in 2008. Although the Program does not break down water pipe investment by individual calendar year,<sup>2</sup> it provides an historic and current overview of AP's water distribution system as of October 2008.

Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of water pipe investment data, broken down by calendar year, to assess the legitimacy of the Company's rate base claim, particularly since that plant investment has been subjected to investigation in biennial base rate filings over that 20-year period and quarterly Distribution System Improvement Charge (DSIC) filings since the inception of the DSIC in 1997. In addition, and contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort and cannot be generated by a software program. Rather, it would require significant man-hours to manually identify the amount of water pipe investment for each calendar year and assemble the requested information.

Interrogatory No. 1 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**B. Interrogatory No. 2**

Interrogatory No. 2 provides as follows:

Request you provide the total number of feet of water pipes replaced by Aqua within the State of Pennsylvania, on December 31 in each of the last 20 years.

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<sup>2</sup> In the Motion to Compel, Mr. Curtius concedes that the specific day for the requested data to be provided may be modified, as long as it is consistent for each year over the 20-year period. For the purposes of the Company's answers to the Interrogatories, unless otherwise specified, the Company provided information as of the end of the calendar year.

In its response to Interrogatory No. 2, AP provided the number of feet of water pipes replaced by AP from 1997-2011. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of water pipe investment data, broken down by calendar year, to assess the legitimacy of the Company's rate base claim in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort. In fact, information prior to 1997 predates the Company's software program and is not readily available. It would require significant effort to manually identify the amount of pipe replaced from 1991-1996 and assemble the requested information.

Interrogatory No. 2 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**C. Interrogatory No. 4**

Interrogatory No. 4 provides as follows:

Request you provide the total number of feet of water pipes installed by Aqua to service new customers within the State of Pennsylvania, on December 31 in each of the last 20 years.

In its response to this Interrogatory, AP explained that the Company does not install water main at its own cost to service new customers, with the exception of the main source program. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of main source program investment data, broken down by calendar year, to assess the legitimacy of the Company's rate base claim in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records and, indeed, is not readily available. It would require significant time and expense to identify the amount of pipe installed

under the main source program for each of the twenty years requested and assemble the requested information.

Interrogatory No. 4 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**D. Interrogatory No. 5**

Interrogatory No. 5 provides as follows:

Request you provide the total *number* of new customers that were added due to the additional piping installed within the State of Pennsylvania, on December 31 in each of the last 20 years.

In its response, AP provided the number of customers added by AP as a result of line extension agreements from 1996-2011. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of customer data to assess the legitimacy of the Company's claim for the additional cost of serving customers in this case. Contrary to Mr. Curtius' assertion, the information requested prior to 1996 cannot be compiled from existing records with minimum effort because it predates the Company's software program, is not readily available and would require significant man-hours to manually identify the amount of pipe replaced from 1991-1995.

Interrogatory No. 5 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**E. Interrogatory No. 6**

Interrogatory No. 6 provides as follows:

Please provide the cost savings in each of the last 20 years that Aqua has had due to the installation of electronic meter-reading devices in the State of Pennsylvania. In years prior to the installation, provide the cost of meter reading and indicate which method of reading was used.

As stated in response to Interrogatory No. 6, AP implemented electronic meter reading in 2003. In addition, the Company does not track cost savings for electronic meter reading. Nonetheless, in an attempt to furnish Mr. Curtius with some information that might be responsive to his inquiry, the Company provided him the incremental cost per meter read prior to and after the installation of radio frequency technology for meter reading.

Despite AP's objection, Mr. Curtius still has not explained why he must determine the annual cost savings from electronic meter reading from its inception to assess the legitimacy of the Company's operating expense claim in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort, but rather, would require significant effort to identify the number of meter reads for each calendar year since 2003.

Interrogatory No. 6 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**F. Interrogatory No. 8**

Interrogatory No. 8 provides as follows:

Please provide the number of executives and the total of executive salaries for each of the past 20 years. Include the cost of pensions, and non-cash items such as stock or any transfer of value.

In its response to Interrogatory No. 8, AP provided an executive compensation summary for the years ending December 31, 2006, 2007, 2008, 2009 and 2010. In addition, the response

clarified that the Company is allocated only a portion of the executive compensation expense shown in the shareholder proxy reports based on customers served.

Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of executive compensation data, to assess the legitimacy of the Company's management fees expense claim in this case, particularly in light of the fact that executive compensation levels in prior years were thoroughly investigated in previous base rate proceedings. Contrary to Mr. Curtius' assertion, the information requested cannot be assembled from existing records with minimum effort and would require significant effort to identify, in archived shareholder proxy reports, the amount of executive compensation from 1991 to 2005.

Interrogatory No. 8 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**G. Interrogatory No. 10**

Interrogatory No. 10 provides as follows:

Please provide the total non-executive labor cost of Aqua employees and total salaries within the State of Pennsylvania for each of the last 20 years. Indicate if the costs include employee benefits.

In its response to Interrogatory No. 10, AP provided the pertinent portions of the 1990 and 2010 Annual Reports filed with the Commission regarding non-executive labor costs so that Mr. Curtius could measure the growth in such costs over time. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of non-executive compensation data (as opposed to comparing the 1990 and 2010 non-executive labor expense) to assess the legitimacy of the Company's payroll expense claim in this case, particularly in light of

the fact that non-executive labor cost levels in prior years were thoroughly investigated in previous base rate proceedings. Contrary to Mr. Curtius' assertion, the information requested cannot be assembled from existing records with minimum effort, but rather would require significant man-hours to identify the amount of non-executive compensation for each year in the historic 20-year period.

Interrogatory No. 10 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**H. Interrogatory No. 11**

Interrogatory No. 11 provides as follows:

Please provide the total contractor cost (non-Aqua employees) within the State of Pennsylvania for each of the last 20 years.

In its response to Interrogatory No. 11, AP provided the pertinent portions of the 1990 and 2010 Annual Reports filed with the Commission regarding contractor expense. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of contractor compensation data (as opposed to comparing the 1990 and 2010 contractor expense) to assess the legitimacy of the Company's payroll expense claim in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be assembled from existing records with minimum effort, but rather would require significant time and expense to identify the amount of contractor compensation for each year in the historic 20-year period.

Interrogatory No. 11 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.



**I. Interrogatory No. 12**

Interrogatory No. 12 provides as follows:

Please provide the after tax income of Aqua in the State of Pennsylvania in each of the last 20 years.

In its response to Interrogatory No. 12, AP provided the pertinent portions of the 1990 and 2010 Annual Reports filed with the Commission regarding net income. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of income data (as opposed to comparing the 1990 and 2010 reported net income) to assess the legitimacy of the Company's revenue requirement in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort, but rather would require significant effort to identify the amount of net income for each year in the historic 20-year period.

Interrogatory No. 12 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**J. Interrogatory No. 13**

Interrogatory No. 13 provides as follows:

Please provide the total number of total Pennsylvania customers as of December 31 in each of the past 20 years.

In its response to Interrogatory No. 13, AP provided the pertinent portions of its 1990 Annual Report and Exhibit 1-A in this proceeding to enable Mr. Curtius to measure the growth in the number of customers over the 20-year period. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of customer data (as opposed to

comparing the 1990 historic test year and future test year number of customers) to assess the legitimacy of the Company's operating expenses and operating revenues in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort, but rather would require significant man-hours to identify the number of Pennsylvania customers for each year in the historic 20-year period.

Interrogatory No. 13 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**K. Interrogatory No. 14**

Interrogatory No. 14 provides as follows:

Please provide the dollar value of services provided to Aqua divisions outside Pennsylvania for each of the past 20 years, and explain how these are reconciled on your books.

In its response to Interrogatory No. 14, AP explained how services to the Company's affiliates have been allocated since Aqua America, Inc. became a multi-jurisdictional utility in 1999. Moreover, the Company identified the total value of services provided by Aqua Services, Inc. for each of the past five years (i.e., 2007 to 2011). Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of data (as opposed to five year's worth) to assess the legitimacy of the Company's management fees claim in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be assembled from existing records with minimum effort, but rather would require significant time and expense to identify the value of services provided by AP to its affiliates in each year from 1991-2006 and assemble the requested information.

Interrogatory No. 14 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**L. Interrogatory No. 15**

Interrogatory No. 15 provides as follows:

Has Aqua exported any water from Pennsylvania in the past 20 years? If "yes", indicate how many gallons in each of the past 20 years. If "yes", indicate if the water was treated prior to leaving the state. If "yes", who is financially benefitting from exporting water? If "yes", was compensation paid to Pennsylvania or any resident of the state.

In its response to Interrogatory No. 15, AP provided the total amount of gallons exported from 2008-2010 to the City of Hubbard ("Hubbard") and Masury Water Company ("Masury"), both located in the State of Ohio. In the Motion to Compel, Mr. Curtius agrees that AP only need to provide ten years of data for this Interrogatory. However, Mr. Curtius still has not explained why he must review ten years worth of gallons exported to assess the legitimacy of the Company's Hubbard expense and revenue adjustments or revenue requirement in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort, but rather would require significant time and expense to identify the amount of gallons exported to Hubbard and Masury for each of the last ten years.

Interrogatory No. 15 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**M. Interrogatory No. 17**

Interrogatory No. 17 provides as follows:

Please state the total dollar amount spent on the purchase of new Aqua equipment (Example: pumps, service vehicles, buildings, dams, etc) for use in the State of Pennsylvania in each of the last 20 years. If any of the equipment is used for both in-state operations and out-of-state operations, state the method of distributing costs between profit centers.

In its response to Interrogatory No. 17, AP provided the pertinent portions of the 1990 and 2010 Annual Reports filed with the Commission regarding growth in plant. Despite AP's objection, Mr. Curtius still has not explained why he must review twenty years worth of plant additions data (as opposed to comparing the 1990 and 2010 growth in plant) to assess the legitimacy of the Company's rate base claim in this case. Contrary to Mr. Curtius' assertion, the information requested cannot be compiled from existing records with minimum effort, but rather would require significant effort to identify the amount of plant additions for each year in the historic 20-year period.

Interrogatory No. 17 is unreasonable, burdensome and requests information that is neither relevant nor necessary to assess AP's claims in this case. Accordingly, AP's Objection should be sustained.

**N. Interrogatory No. 25**

Interrogatory No. 25 provides as follows:

We currently pay a DSIC charge of 7.5 percent of the combined customer charge and usage charge. What would this percentage be under Aqua's proposed rate increase? Please provide the DSIC in effect in each of the last 20 years.

Mr. Curtius notes in the Motion to Compel that the information requested regarding the DSIC charge need only be provided for the years that such information is available. In its response to Interrogatory No. 25, AP provided the DSIC charge in effect from the first quarter of

1997, when the DSIC went into effect, through the first quarter of 2012. As such, AP has already responded fully to Interrogatory No. 25.

In summary, the Company has made a good faith effort to cooperate with Mr. Curtius and to respond to his requests and, in the process, has provided him with extensive current and historic data. His Motion to Compel should, therefore, be denied and Aqua Pennsylvania, Inc.'s Objections to his Interrogatories should be sustained.

Respectfully submitted,



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SECRETARY'S BUREAU

Dated: February 17, 2012

**VERIFICATION**

I, William C. Packer, hereby state that the facts set forth in the attached Answer are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 17, 2012

William C. Packer

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION** : **DOCKET NO. R-2011-2267958**  
:   
**vs.** :   
**AQUA PENNSYLVANIA, INC.** :

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served copies of the **Answers of Aqua Pennsylvania, Inc. to: (1) the Motion of Robert W. Curtius to Dismiss Objections and to Compel Answers to Interrogatories; and (2) the Request of Robert W. Curtius for an Extension of the Deadline for the filing of Direct Testimony** upon the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC AND HAND-DELIVERY**

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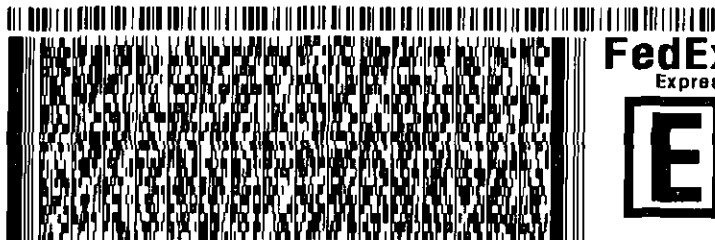
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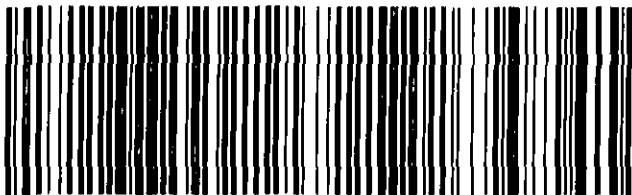
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