

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

FAX (717) 783-7152
consumer@paoca.org

May 9, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Advance Notice of Proposed Rulemaking for
Revision of the Commission's Regulations on
Water Conservation Measures at 52 Pa. Code § 65.20
Docket No. L-2012-2319361

Dear Secretary Chiavetta:

Attached for electronic filing are the Reply Comments of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served on the parties listed on the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christ Maloni Hoover".

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. #50026

Attachment

cc: Certificate of Service
169079

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Advance Notice of Proposed Rulemaking
On Water Conservation Measures
At 52 Pa. Code Section 65.20

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Docket No. L-2012-2319361

REPLY COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
choover@paoca.org

Counsel for:

Tanya J. McCloskey
Acting Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: tmcloskey@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: May 9, 2013

I. INTRODUCTION

On January 24, 2013, the Public Utility Commission (Commission) entered a Proposed Rulemaking Order regarding the Water Audit Methodology established by the International Water Association (IWA) and the American Water Works Association (AWWA). On April 20, 2013, Aqua Pennsylvania, Inc. (Aqua) and Pennsylvania-American Water Company (PAWC) filed brief Comments as to that Order. George A. Kunkel, Jr., Water Efficiency Program Manager of the Philadelphia Water Department sent a brief letter commenting on that Order, as did Carol R. Collier, Executive Director of the Delaware River Basin Commission.

The Office of Consumer Advocate submits these brief Reply Comments in accordance with the Notice in the Pennsylvania Bulletin, published at 43 Pa.B. 870 (February 9, 2013).

II. REPLY COMMENTS

A. Reply to Comments of Aqua PA.

1. The potential for duplicative agency requirements.

Aqua comments that, as an active participant in the Water Audit Pilot Project for a two-year period, the Company supports the Water Audit Methodology and believes it a balanced way to track, identify and estimate water losses in distribution systems. Aqua Comments at 1. Aqua notes that the Delaware River Basin Commission (DRBC) has already required a water audit approach that is consistent with the IWA/AWWA Methodology. Id. The Resolution approving amendments to the Water Code and Comprehensive Plan to implement the updated water audit approach was published in the Pennsylvania Bulletin on February 9, 2013. 43 Pa.B. 830. Aqua comments further that a policy statement “may be a better avenue” than a

rulemaking, rather than having duplicative requirements by two different agencies. Aqua Comments at 2.

The OCA agrees with Aqua that the IWA/AWWA Water Audit is an effective and balanced way to conserve water and improve efficiency for water systems. The OCA does not agree, however, that the fact that the DRBC has adopted this requirement already is necessarily a reason to adopt a policy statement rather than a rulemaking. The OCA would note that the Commission has already “harmonized” water quality, design and construction standards by simply incorporating by reference applicable Department of Environmental Protection standards into its own regulations. *See* 52 Pa. Code §65.17-65.18. Indeed, the DEP has incorporated the DRBC requirement into its own regulations at 25 Pa. Code Ch. 901. The same approach could be used to incorporate the DRBC requirements by reference, where applicable to a particular water utility such as Aqua. The OCA would also note that, while a substantial portion of the Aqua PA service territory is within the Delaware River Basin and subject to the DRBC standards, the same is not true for many other water systems in the Commonwealth. In general, therefore, incorporation of the same IWA/AWWA Water Audit Methodology as a standard for water utilities regulated by the Commission should generate no conflicts for Aqua or any other regulated water utility.

2. The potential for conflict with single-tariff pricing principles.

Aqua also requests that the Commission review the specific data requested through the Water Audit Methodology and its impact on single-tariff pricing. Aqua Comments at 4. The OCA has not been able to discern any part of the IWA/AWWA water audit methodology that would conflict with single-tariff pricing, a principle that has been promoted by this Commission and a permanent accepted principle reflected in every rate proceeding. Indeed,

as this methodology is already required for much of Aqua's territory by virtue of its adoption by the DRBC, this concern should be rejected. If, in fact, some incidental impact on single-tariff pricing may occur as a result of this methodology, the benefits of its adoption will certainly outweigh any such consequence.

3. Applicability to small water companies.

Only the largest Pennsylvania jurisdictional water companies were asked to participate in the pilot program leading to this proceeding to adopt the IWA/AWWA Water Audit Methodology.¹ The participating companies had two years or more to gradually incorporate the various facets of the methodology into their operations. The Class B and C water companies have not yet participated in the Commission's pilot. There may be some of those companies that will need additional time to comply with the requirements set forth in the proposed rulemaking order due to more limited resources.

The OCA recommends, therefore, that the Commission consider a similar two-year "pilot program" opportunity or some type of phase in of the requirements for the small companies not already subject to the DRBC requirements. In addition, the Commission could provide outreach and materials to the smaller companies to ensure a full understanding of the requirements and to aid in compliance with the new requirements.

III. CONCLUSION

The OCA submits that, upon incorporation of the IWA/AWWA Water Audit Methodology into its regulations applicable to all large regulated water utilities, the Public Utility Commission should simultaneously withdraw the Statement of Policy at 52 Pa. Code §

¹ Class A water utilities were included in the Commission's 2011 Tentative Order (which became final on January 27, 2012) implementing the Water Audit methodology. In Re: Pilot Project to Implement The International Water Association/American Water Works Association Water Audit Methodology, Docket No. M-2008-2062697 Tentative Opinion and Order (November 10, 2011).

65.20. The Commission should also permit small water companies to phase the methodology in over a two-year period, to the extent that such companies are not already subject to the requirement by the DRBC.

Respectfully submitted,



Christine Maloni Hoover
PA Attorney I.D. # 50026
E-Mail: choover@paoca.org

Counsel for:
Tanya J. McCloskey,
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: May 9, 2013

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CERTIFICATE OF SERVICE

Advance Notice of Proposed Rulemaking Order :
Revision of the Commission's Regulations on Water : Docket No. L-2012-2319361
Conservation Measures at 52 Pa. Code § 65.20 :

I hereby certify that I have this day served a true copy of the foregoing Reply Comments of the Office of Consumer Advocate upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 9th day of May 2013.

SERVICE BY HAND DELIVERY

Jani Tuzinski
Bureau of Technical Utility Services
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

Stan Brown, Esquire
Kenneth R. Stark, Esquire
Law Bureau
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

SERVICE BY FIIRST CLASS MAIL, POSTAGE PREPAID

Susan Simms Marsh, Esquire
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

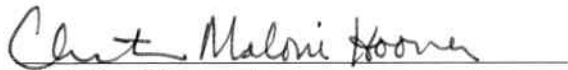
1101 Market Street
Philadelphia, PA 19107

Andrew S. Tubbs, Esquire
Post & Schell PC
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Counsel for Aqua Pennsylvania, Inc.

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

George A. Kunkel, Jr.
Water Efficiency Program Manager
Philadelphia Water Department
Aramark Building, 4th Floor

Carol R. Collier, Executive Director
Delaware River Basin Commission
25 State Police Drive
P.O. Box 7360
West Trenton, NJ 08628-0360



Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. #50026
Email: CHoover@paoca.org

Counsel for
Tanya McCloskey, Acting Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
169100