



THOMAS, NIESEN & THOMAS, LLC

*Attorneys and Counsellors at Law*

THOMAS T. NIESEN  
Direct Dial: 717.255.7641  
tniesen@tntlawfirm.com

June 13, 2017

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

In re: Docket No. A-2017-2605434

Application of Aqua Pennsylvania Wastewater, Inc. pursuant to Sections 1102 and 1329  
of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets  
of Limerick Township

Dear Secretary Chiavetta:

We are counsel to Aqua Pennsylvania Wastewater, Inc. in the above matter and are submitting, via electronic filing with this letter, the Company's Answer to the Motion of the Bureau of Investigation and Enforcement to Expedite Discovery. Copies of the Answer are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

cc: Certificate of Service (w/encl.)  
Alexander R. Stahl, Esquire (w/encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of Aqua Pennsylvania Wastewater, Inc., : Docket No. A-2017-2605434**  
**pursuant to Sections 1102 and 1329 of the Public :  
Utility Code for: (1) approval of the acquisition by :  
Aqua of the wastewater system assets of Limerick :  
Township situated within a portion of Limerick :  
Township and within a portion of the Borough of :  
Royersford, Montgomery County, Pennsylvania; (2) :  
approval of the right of Aqua to begin to offer, :  
render, furnish and supply wastewater service to the :  
public in a portion of Limerick Township, :  
Montgomery County, Pennsylvania; and (3) an :  
order approving the acquisition that includes the :  
ratemaking rate base of the Limerick Township :  
wastewater system assets pursuant to Section :  
1329(c)(2) of the Public Utility Code :**

**ANSWER OF AQUA PENNSYLVANIA WASTEWATER, INC. TO THE  
MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT  
TO EXPEDITE DISCOVERY**

AND NOW comes Aqua Pennsylvania Wastewater, Inc. (“Aqua”), by its attorneys, and, pursuant to 52 Pa. Code Section 5.103, answers the Motion of the Bureau of Investigation and Enforcement (“I&E”) to Expedite Discovery as follows:

1. This proceeding concerns the Application of Aqua, filed with the Public Utility Commission (“Commission”) on May 19, 2017, for approval of its acquisition of the wastewater system assets of Limerick Township pursuant to Sections 1102 and 1329 of the Public Utility Code.

2. By Secretarial Letter dated May 31, 2017, the Commission, *inter alia*, acknowledged receipt of the Application and advised that notice of its filing would be published in the Pennsylvania Bulletin on June 10, 2017. The Application was assigned to Docket No. A-2017-2605434.

3. I&E filed a Notice of Appearance on June 9, 2017 and, also on June 9, 2017, a Motion to Expedite Discovery (“Motion”).

4. In its Motion, I&E asks that discovery rules be modified as follows:

- a. Answers to written interrogatories shall be served in-hand within three (3) calendar days of service. Discovery and discovery-related pleadings propounded on a Friday or on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.
- b. Objections to interrogatories shall be communicated orally within one (1) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within two (2) calendar days of service of the interrogatories.
- c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of the written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of such motions.
- e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within three (3) calendar days.
- f. Requests for admissions will be deemed admitted unless answered within three (3) calendar days or objected to within two (2) calendar days of service.
- g. Discovery-related pleading, such as objections, motions, or answers, served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

5. The foregoing discovery modifications proposed by I&E are an unwarranted departure from the modifications requested by I&E and implemented by your Honor in the New Garden proceeding at A-2016-2580061 per your Order dated January 12, 2017. The further modified discovery deadlines proposed by I&E here are significantly shorter than those implemented in New Garden and, at three (3) days for responding and one (1) day for objecting,

simply do not allow sufficient time for the receiving party to consider and address discovery requests.

6. Aqua, however, does not oppose modification of discovery time periods. While we continue to believe that the appropriate discovery modifications are those typically implemented in base rate proceedings, which provide, *inter alia*, for a ten (10) day response period for interrogatories, we propose that your Honor implement the modifications adopted by your Honor in New Garden as follows:

- a. Answers to written interrogatories shall be served in-hand within seven (7) calendar days of service. Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleading.
- b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.
- c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within seven (7) calendar days.
- f. Requests for admissions will be deemed admitted unless answered within seven (7) calendar days or objected to within four (4) calendar days of service.
- g. Discovery-related pleadings, such as objections, motions, or answers, served on a Friday or the day before a holiday recognized by the

Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

7. I&E does not explain why the discovery modifications implemented by your Honor in New Garden should not be carried over and implemented here. Although I&E argues that, in this proceeding, twenty-two days are taken out of the six month schedule because there is only one public meeting scheduled in November 2017, we point out that a similar fifteen days was taken out of the six month schedule in New Garden because there is only one public meeting scheduled in June 2017.<sup>1</sup>

8. There is no material difference between New Garden and this proceeding that justifies the significantly shorter discovery deadlines proposed by I&E in its Motion. A seven (7) day response period was appropriate in New Garden and it is, similarly, appropriate here. The Office of Consumer Advocate (“OCA”) has already initiated discovery and asked for the courtesy of responses within seven (7) days. Aqua intends to answer the OCA discovery within the seven (7) day period.

9. Along with the discovery modifications from your New Garden Order, we ask that your Honor also direct as follows:

- a. Consistent with your New Garden Order dated January 12, 2017, page 2, we ask that your Honor recognize that the parties may not be able to meet the seven day response time in every instance. Accordingly, in those instances when compliance is not possible despite a party’s best efforts, the producing party must contact the requesting party to so advise and the parties must work together to address the requests and responses on a reasonably timely basis.
- b. Consistent with your New Garden Order dated January 24, 2017, page 2, addressing an I&E Motion to Dismiss Objections, we ask that your Honor recognize that, by providing answers to discovery, Aqua is not waiving any

---

<sup>1</sup> Aqua’s New Garden application was acknowledged by Secretarial Letter dated December 30, 2016, with a six month deadline of approximately June 30, 2017 as explained in your New Garden Order dated January 12, 2017. Public meeting scheduling required that the New Garden proceeding conclude by June 15, 2017 as also explained in your Order.

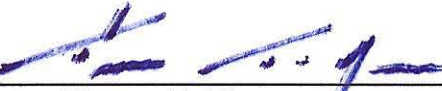
objections it may have either to the admissibility of evidence or the interpretation of Section 1329 and that any such objections may be raised at the hearing and in briefs.

- c. In addition to the OCA, the Bureau of Technical Utility Services has sent data requests in a proceeding that has now been protested and under litigation. The discovery modifications do not apply to data requests of the Bureau of Technical Utility Services, an advisory bureau to the Commission.
- d. The discovery modifications adopted here should apply only to discovery served subsequent to the issuance of the Order addressing the Motion. It would not apply to discovery served prior to the issuance of the Order.

WHEREFORE Aqua Pennsylvania Wastewater, Inc. submits this Answer to the Motion of the Bureau of Investigation and Enforcement to Expedite Discovery.

Respectfully submitted,

**AQUA PENNSYLVANIA WASTEWATER, INC.**

By 

Thomas T. Niesen  
PA Attorney ID No. 31379  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101  
tniesen@tntlawfirm.com  
Tel. No. (717) 255-7600

*Counsel for Aqua Pennsylvania Wastewater, Inc.*

Date: June 13, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of Aqua Pennsylvania Wastewater, Inc., : Docket No. A-2017-2605434**  
**pursuant to Sections 1102 and 1329 of the Public :  
Utility Code for: (1) approval of the acquisition by :  
Aqua of the wastewater system assets of Limerick :  
Township situated within a portion of Limerick :  
Township and within a portion of the Borough of :  
Royersford, Montgomery County, Pennsylvania; (2) :  
approval of the right of Aqua to begin to offer, render, :  
furnish and supply wastewater service to the public in :  
a portion of Limerick Township, Montgomery County, :  
Pennsylvania; and (3) an order approving the :  
acquisition that includes the ratemaking rate base of :  
the Limerick Township wastewater system assets :  
pursuant to Section 1329(c)(2) of the Public Utility :  
Code :**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 13<sup>th</sup> day of June, 2017, served a true and correct copy of the foregoing Answer of Aqua Pennsylvania Wastewater, Inc. to the Motion of the Bureau of Investigation and Enforcement to Expedite Discovery, upon the persons and in the manner set forth below:

**VIA ELECTRONIC AND 1<sup>ST</sup> CLASS MAIL**

The Honorable Stephen K. Haas  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, PA 17105-3265  
sthaas@pa.gov

Carrie B. Wright, Prosecutor  
Phillip C. Kirchner, Prosecutor  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, PA 17105-3265  
carwright@pa.gov  
phikirchne@pa.gov

Christine Maloni Hoover  
Erin L. Gannon  
Senior Assistant Consumer Advocates  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
choover@paoca.org  
egannon@paoca.org



Thomas T. Niesen  
PA Attorney ID No. 31379