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March 28, 2019

C.J. ZWICK, ESQ.
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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Pa. Public Utility Commission v. Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc.; Docket Nos. R-2018-3003558 and R-2018-3003561

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced proceedings, is the *Exceptions of the Treasure Lake Property Owners' Association, Inc. to Recommended Decision Dated March 11, 2019*.

Copies have been served in accordance with the Certificate of Service.

If you have any questions, please do not hesitate to contact me.

With regards, I am

Very truly yours,

C.J. Zwick

CJZ/amm

Enclosure

cc: Office of Administrative Law Judge
Per the Certificate of Service
File

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et. al	:	
	:	
v.	:	
	:	
Aqua Pennsylvania, Inc.	:	Docket Nos. R-2018-3003558
Aqua Pennsylvania Wastewater, Inc.	:	R-2018-3003561
	:	A-2018-3004108
	:	A-2018-3004109
and	:	
	:	
Joint Application of Aqua Pennsylvania, Inc.	:	
and its Subsidiary, Superior Water Co., Inc.	:	
	:	

**EXCEPTIONS
OF TREASURE LAKE PROPERTY OWNERS' ASSOCIATION, INC.
TO RECOMMENDED DECISION DATED MARCH 11, 2019**

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I. INTRODUCTION

On August 17, 2018, Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. (collectively referred to as “Aqua” or “Company”) filed with the Pennsylvania Public Utility Commission (“PUC” or “Commission”), both Tariff Water-Pa. P.U.C. No. 2 (“Tariff Water No. 2”) and Tariff Sewer-Pa. P.U.C. No. 2 (“Tariff Sewer No. 2”). Aqua’s filings seek approval, *inter alia*, of “an overall rate increase of \$71.8 million per year in total for all of its water and wastewater operations.”

By Orders entered on September 20, 2018, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of the Company’s existing and proposed rates, rules and regulations. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d), both of Aqua’s tariff filings – Tariff Water No. 2 and Tariff Sewer No. 2 (collectively referred to as the “Tariff Filings”) – were suspended by operation of law on September 20, 2018 until May 16, 2019, unless otherwise directed by Commission Order.

On or about September 24, 2018, Treasure Lake Property Owners’ Association, Inc. (“TLPOA”) filed a Petition to Intervene in this matter. TLPOA is a non-profit, non-stock Pennsylvania corporation, which was incorporated on May 20, 1968, as the homeowners’ association for the Treasure Lake Subdivision. The Treasure Lake Subdivision is an eight-thousand-acre subdivision located in Sandy Township, Clearfield County, Pennsylvania. The Treasure Lake Subdivision is comprised of both residential lots and recreational vehicle lots. The members of TLPOA, and the Association itself, are customers of the Company; TLPOA, therefore, has a direct interest in the Commission’s disposition of the Tariff Filings.

On February 8, 2019, Aqua, along with seven additional parties, filed a Joint Petition for Settlement (the “Settlement”). The Settlement correctly indicates that TLPOA opposed the

settlement due to the significant increase of the proposed rates allocated to Treasure Lake customers. On February 25, 2019, the record was closed. On March 11, 2019, Administrative Law Judges (“ALJs”) Angela T. Jones and F. Joseph Brady issued a Recommended Decision (“R.D.”), setting forth their recommendation to approve the Settlement as filed.

II. EXCEPTIONS

A. The concepts of gradualism and rate shock

In Pennsylvania, it is well-settled that, while there is no specific set of guidelines or a test which is implemented in the evaluation of a proposed rate increase, the principal of gradualism to avoid rate shock is a factor to be considered in the implementation of large rate increases. Lloyd v. Pennsylvania Public Utility Com’n, 904 A.2d 1010, 1019, n.16 (Pa. Cmwlth. 2006) (citations omitted). Further, in the R.D., the ALJs specifically recognized that gradualism should be used “where necessary to prevent rate shock for a particular customer class.” R.D. at 58.

Gradualism is the concept that rates should be gradually increased in order to avoid customers experiencing rate shock. Lloyd, 904 A.2d at 1018 n.14. Rate shock is a phrase used “to describe the public outcry associated with rate increases.” Id. In order to remedy rate shock, gradualism must be implemented. Id. Gradualism requires “phasing in rates. . . over a longer period of time allowing customers to gradually make the adjustments to the ‘elastic’ part of their spending so as to pay for increased utility costs, not to mention lessening the pressure on the Commission and the utilities to dampen rate increases.” Id.

While not specifically addressed by the ALJs, the fact that Aqua has not increased its water rates since June 2012, and its wastewater rates since October 2010, is significant. Because Aqua customers, and especially those residing in Treasure Lake, have grown accustomed to their water and wastewater rates and, thus, can rely upon the consistency of their bills, the necessity of

implementing a rate increase more consistent with gradualism is critical, to avoid customer rate shock. As shown below, the Settlement will result in rate shock and fails to implement the principal of gradualism when considering the new rates Treasure Lake customers will experience if the R.D., which approves the Settlement as filed, is implemented.

B. An increase in the residential customer charge (water) for Treasure Lake customers from \$12.84 to \$18.00, combined with the consumption rate increases contained in the Settlement, are unreasonable and fail to reflect gradualism.

As the Settlement sets forth, residential customers (using a 5/8-inch meter) who reside in Treasure Lake would see an increase in the monthly customer charge from \$12.84 to \$18.00, representing an increase in the base rate of 40.19%. As such, even customers who use no water in a given month will see a nearly fifty-percent increase on their water bills. For comparison, the same residential customers who reside in the Main Division will see an increase to their monthly customer charge of just 4.65%.¹

However, the vast majority of Treasure Lake customers use between 1,000 gallons and 5,000 gallons on a monthly basis. Those customers would see increases between 43.22% (1,000 gallons) and 48.32% (5,000 gallons) depending on their specific usage. A full breakdown of the rate increases that Treasure Lake customers will face is provided in the chart below:

¹ Additional examples of the increases to the customer charge in other divisions are as follows: Superior (4.61%), Eagle Rock, Fawn Lake, Tanglewood, Thorhurst, Woodledge Village, Western and Pinecrest (0.18%), Oakland Beach and Lakeside Acres (10.84%), Kratzerville (4.65%) and East Cameron (-64.00%).

Water				
	Present Rates	Settlement Rates	Percent Increase	
Customer Charge	\$ 12.84	\$ 18.00	40.19%	
1000 Gallons	\$ 16.36	\$ 23.43	43.22%	
2000 Gallons	\$ 19.88	\$ 28.86	45.17%	
3000 Gallons	\$ 23.40	\$ 34.29	46.54%	
4000 Gallons	\$ 26.92	\$ 39.72	47.55%	
5000 Gallons	\$ 30.44	\$ 45.15	48.32%	
6000 Gallons	\$ 33.96	\$ 50.58	48.94%	
7000 Gallons	\$ 37.48	\$ 56.01	49.44%	
8000 Gallons	\$ 41.00	\$ 61.44	49.85%	
9000 Gallons	\$ 44.52	\$ 66.87	50.20%	
10000 Gallons	\$ 48.04	\$ 72.30	50.50%	

When compared to other residential customers affected by the Settlement, Treasure Lake customers will be disproportionately impacted. For example, a residential customer in the Main Division who uses 4,000 gallons of water per month will see an increase of just 9.42%, while that same customer in the Treasure Lake Division will see an increase of 47.55%.² In fact, the Treasure Lake Division customer using 4,000 gallons of water per month will see the fourth largest increase behind the Bunker Hill Division (104.56%), the Bristol Division (56.74%), and the Beech Mountain Division (47.56%). The same type of analysis can be performed at each level of water usage from 1,000 gallons all the way up to 10,000 gallons. These disproportionate increases that Treasure Lake customers will suffer will result in rate shock and violate of the principals of gradualism described above in Lloyd.

² Additional examples of the rate increases for a 4,000 gallon customer in other divisions are as follows: Superior (14.71%), Eagle Rock, Fawn Lake, Tanglewood, Thorhurst, Woodledge Village, Western and Pinecrest (9.41%), Oakland Beach and Lakeside Acres (14.64%), Kratzerville (25.03%) and East Cameron (14.18%).

C. An increase in the residential customer charge (wastewater) from \$20.61 to \$31.00, combined with the consumption rate increases contained in the Settlement, are unreasonable and fail to reflect gradualism.

As the Settlement reflects, residential customers (using a 5/8-inch meter) who reside in Treasure Lake would see an increase in the monthly wastewater customer charge from \$20.61 to \$31.00, representing an increase in the base rate of 50.41%. For comparison, the same residential customers who reside in the Willistown Woods Division will see an increase to their monthly wastewater customer charge of just 1.88%.³

However, as stated above, the vast majority of Treasure Lake customers use between 1,000 gallons and 5,000 gallons of water on a monthly basis. Those customers would see increases between 53.12% (1,000 gallons) and 58.79% (5,000 gallons) depending on their specific usage. A full breakdown of the rate increases that Treasure Lake customers will face is provided in the chart below:

Wastewater				
	Present Rates	Settlement Rates	Percent Increase	
Customer Charge	\$ 20.61	\$ 31.00	50.41%	
1000 Gallons	\$ 24.36	\$ 37.30	53.12%	
2000 Gallons	\$ 28.11	\$ 43.60	55.10%	
3000 Gallons	\$ 31.86	\$ 49.90	56.62%	
4000 Gallons	\$ 35.61	\$ 56.20	57.82%	
5000 Gallons	\$ 39.36	\$ 62.50	58.79%	
6000 Gallons	\$ 43.11	\$ 68.80	59.59%	
7000 Gallons	\$ 46.86	\$ 75.10	60.26%	
8000 Gallons	\$ 50.61	\$ 81.40	60.84%	
9000 Gallons	\$ 54.36	\$ 87.70	61.33%	
10000 Gallons	\$ 58.11	\$ 94.00	61.76%	

³ Additional examples of the increases to the customer charge in other divisions are as follows: Links at Gettysburg (-0.43%), Twin Hills (9.35%), White Haven Division – Kidder Township (-45.14%), Eagle Rock (-16.83%), and Stony Creek (-2.65%).

Again here, when compared to other residential customers affected by the Settlement, Treasure Lake customers will be disproportionately impacted. For example, a residential wastewater customer in the Willistown Woods Division who uses 4,000 gallons per month will see an increase of just 38.53%, while that same customer in the Treasure Lake Division will see an increase of 57.82%.⁴ In fact, in several other divisions, many average wastewater customers who use 4,000 gallons per month will see their bills decrease, while Treasure Lake customers face a significant increase (e.g., White Haven – Kidder Township, -3.21%; The Greens at Penn Oaks, -1.11%). The same type of analysis can be performed at each level of water usage from 1,000 gallons all the way up to 10,000 gallons. These disproportionate increases that Treasure Lake customers will suffer will result in rate shock and violate of the principals of gradualism described above in Lloyd.

D. The proposed increase in the combined rates (water and wastewater) for Treasure Lake customers, as approved by the R.D., is unreasonable and fails to reflect gradualism.

Based on the foregoing, it is no surprise that Treasure Lake customers are disproportionately affected by the Settlement and R.D., relative to their overall (combined water and wastewater) bills.

As set forth in the combined chart below, the vast majority of Treasure Lake customers (i.e., those using between 1000 gallons and 5000 gallons of water and wastewater per month) would see overall increases between 49.14% (1,000 gallons) and 54.23% per month (5,000 gallons). Higher volume customers (those using between 6000 gallons and 10000 gallons per

⁴ The rate increases for a 4,000 gallon customer in other divisions are as follows: Links at Gettysburg (11.19%), Twin Hills (43.86%), White Haven Division – Kidder Township (-3.21%), Eagle Rock (45.10%), and Stony Creek (34.61%).

month) would see an even higher overall rate increases between 54.90% and 56.67%. The full breakdown of the rates customers will face is contained in the following chart:

Combined Water & Wastewater				
	Present	Settlement	Percent Increase	Percentage of Monthly Bills on Annual Basis
Customer Charge	\$ 33.45	\$ 49.00	46.49%	8.45%
1000 Gallons	\$ 40.72	\$ 60.73	49.14%	12.85%
2000 Gallons	\$ 47.99	\$ 72.46	50.99%	16.46%
3000 Gallons	\$ 55.26	\$ 84.19	52.35%	19.51%
4000 Gallons	\$ 62.53	\$ 95.92	53.40%	16.51%
5000 Gallons	\$ 69.80	\$ 107.65	54.23%	11.20%
6000 Gallons	\$ 77.07	\$ 119.38	54.90%	6.23%
7000 Gallons	\$ 84.34	\$ 131.11	55.45%	3.56%
8000 Gallons	\$ 91.61	\$ 142.84	55.92%	2.01%
9000 Gallons	\$ 98.88	\$ 154.57	56.32%	1.14%
10000 Gallons	\$ 106.15	\$ 166.30	56.67%	0.63%

As set forth above, Treasure Lake customers have experienced nearly ten years of consistent and reliable water and wastewater rates. If the Settlement is approved as recommended by the ALJs, Treasure Lake customers will experience immediate, significant and disproportionate increases in their bills (as demonstrated above), causing rate shock. As set forth in Lloyd and other rate cases, the principle of gradualism is the remedy for rate shock.

III. CONCLUSION

For the reasons set forth herein, TLPOA respectfully submits that the ALJs erred by recommending that the Settlement be accepted, without modification, because it fails to adhere to the principle of gradualism and will cause rate shock among at least one customer division (i.e., Treasure Lake). As such, TLPOA, on behalf of Aqua customers residing in Treasure Lake, respectfully requests that the Commission grant these exceptions and adopt a rate increase for the Treasure Lake Division that is consistent with the principle of gradualism in order to avoid rate shock experienced by Aqua customers residing in Treasure Lake.

Respectfully submitted,

ZWICK & ZWICK LLP

A handwritten signature in blue ink, consisting of several loops and a final flourish.

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