



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

December 6, 2017

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P.O. Box 2029
Media, PA 19063

Re: Aqua America, Inc. Promises to Potential Customers of Rate Freezes

Dear Mr. Catania,

Your letter dated November 22, 2017 regarding written communications and public outreach efforts of Aqua America, Inc. and Aqua Pennsylvania, Inc. has been referred to me for a response.

The November 22 letter requests guidance from the Commission regarding “pledges Aqua America, Inc., a PUC regulated entity, is making through advertisements throughout southeastern Pennsylvania.” Specifically, the letter seeks information on what

laws or regulations permit Aqua to advertise promises that would shift costs from one group of ratepayers whose rates are frozen to other Commonwealth citizens?

As an initial matter, the Commission does not regulate the parent-level holding company Aqua America, Inc. The Commission regulates Aqua America’s wholly-owned state level operating company, **Aqua Pennsylvania, Inc.** The Commission lacks authority to prevent Aqua America from seeking to purchase Chester Water Authority or from making public statements or other overtures to stakeholders, including affected customers or the public at large.

The November 22 letter is correct that the Commission is responsible for reviewing, and if necessary adjudicating, the rates of utilities whose rates are regulated under the Public Utility Code. As such, the Commission is not obligated to approve any rate, rate allocation or rate freeze presented to it for approval by a regulated utility, *even if promised* by the utility to various stakeholders in advance of the filing.

The Commission may consider a proposed rate freeze as a part of an asset acquisition under its public interest standard or applicable precedent. The question faced by the Commission in such a proposal, however, would be whether the freeze is

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reasonable under the circumstances. As the November 22 letter points out, this includes consideration of what effect, if any, such a proposal would have on the rates of the utility's other customers.

In recent years, the General Assembly has added provisions to the Public Utility Code that provide incentives for the rehabilitation of aging infrastructure, 66 Pa. C.S. §§ 1350 – 1360, and the acquisition of municipal utility water and waste water systems, 66 Pa. C.S. § 1329.

While the Public Utility Code provides a framework for how these acquisitions are to proceed, each acquisition stands on the merits of its individual facts and circumstances. Moreover, the final decision on whether the acquisition will be permitted and on the level of rates to be charged, including any proposed rate freezes, lies with the Commission. And like the Scranton acquisition discussed by the November 22 letter, the Commission's adjudicatory process is open to all affected stakeholders: those who wish to support the acquisition, as well as those who wish to argue that some or all the terms and conditions of a proposed acquisition are not in the public interest.

Sincerely,



Bohdan R. Pankiw
Chief Counsel
Pennsylvania Public Utility Commission

cc: Gladys M. Brown, Chairman, Pa. PUC
Andrew G. Place, Vice Chairman, Pa. PUC
Norman J. Kennard, Commissioner, Pa. PUC
David W. Sweet, Commissioner, Pa. PUC
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