

Aqua Pa. sues to block Chester Water Authority deal with Chester

By Kathleen E. Carey kcarey@21st-century-centurymedia.com @ dtbusiness on Twitter Apr 5, 2019

Aqua Pennsylvania is suing the Chester Water Authority and the city of Chester because of the impact that a 10 percent CWA rate hike will have on Aqua's customers.

"Their actions have affected our customers, my business ... and frankly, they get nothing more for it," Marc Lucca, president of Aqua Pennsylvania said. "I have to pass along \$75,000 more in costs to my customers and there's absolutely no benefit that they get."

Often, utilities will have connections for each other for various reasons ranging from emergencies to everyday operational need. Aqua pays the Chester Water Authority approximately \$750,000 annually for four interconnects in their system.

In January, the CWA board unanimously approved raising rates 10 percent to provide for a \$60.2 million settlement with the city of Chester. City officials, in exchange, agreed not to raise a claim to terminate or acquire any project of CWA for 40 years and that the assets of CWA would be placed into a trust for that same time period.

According to Aqua officials, this hike would result in \$75,000 being directly passed onto their customers with no corresponding benefits. And, that's why they filed the lawsuit in Delaware County Common Pleas Court on Wednesday.

"When we affect rates, it's to recover costs that we've invested in our system," Lucca explained. Any rate charge Aqua wants to impose must go through an approval process with the Pennsylvania Public Utility Commission, which could take up to nine months and involves public hearings and a hearing before an administrative law judge, he said.

Since it is an authority, the Chester Water Authority is not governed by the PUC and can independently change its rates.

The last time Aqua raised rates was in 2012, although it is in the midst of a rate increase request that is expected to conclude next month. In those seven years, Lucca said the company has made more than \$2 billion in improvements from treatment plants to pipelines to compliance regulations.

"We're regulated by the PUC," he said. "Everything we do they approve before it gets to a customer ... Clearly, the CWA doesn't have that requirement."

Lucca said this action has no relation to the company's failure to acquire the assets of the Chester Water Authority two years ago.

"They're two separate issues," he said, emphasizing the \$75,000 in costs that will be passed onto his customers. He was unable to say how much the average customer will pay as a result, although he added that the amount is a small number but that the company is required to account for all of their costs.

The situation with the Chester Water Authority and the city of Chester reaching a multi-million settlement began, in part, in 2017 when Aqua America, Aqua Pennsylvania's parent company, offered to purchase the CWA system for \$320 million and retain all of the CWA employees.

At issue was the city of Chester's Act 47 status. The city had been operating under a financially distressed state and under state receivership since 1995 and the state had assigned a consultant, Econsult Solutions, to the city to help guide it to

financial self governance. In August 2017, Chester Mayor Thaddeus Kirkland sent a letter to CWA stating that Econsult concluded that the only way the city's finances could be stabilized was if the authority were to be sold.

About 22 percent of the CWA's 42,000 customers are in the city of Chester. The remaining 78 percent are elsewhere in Delaware and Chester counties. The CWA board has three members from Chester City, three from Delaware County and three from Chester County.

The CWA rejected Aqua's offer as it claimed such a sale would cost its ratepayers much more. Initially, there was debate as to whether Chester City had the authority to sell the assets on its own based its position in the CWA's founding but the CWA and city officials entered into negotiations in March 2018, which resulted in the eventual \$60.2 million settlement.

Chester Water Authority officials noted that Aqua had terminated buying water from the CWA in Ridley Township and Nether Providence and were spending \$2.5 million to build pipelines so they don't have to purchase water from the authority.

"They've given us notice that they're cancelling the purchases from the Ridley site," CWA Solicitor Francis Catania said. "They're walking away from that kind of profit just to punish us. The people that are being punished are their ratepayers who have been drinking our water since 1952."

He estimated that Aqua reaped a \$1.8 million profit on the water it purchased from the Chester Water Authority.