

Chester Water Authority Gears Up for Survival Battle in Court

By Colin Ainsowrth June 21, 2019

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CHESTER >> The Chester Water Authority is preparing for a trifecta of developments in the ongoing question of whether the financially distressed City of Chester, as CWA's original incorporator, has the ability to terminate and sell the authority.

While the city awaits the July 1 deadline for its request for proposal to sell the assets of the authority, the CWA has issued a request of its own. The authority issued a request for qualifications on June 19 (with a July 15 deadline) for investigative services "into the attempted purchase and takeover of the authority's customers and assets which began in 2017 and continues to the present."

The CWA Board of Directors authorized the RFQ at a June 12 meeting, the same day Chester City Council passed a resolution authorizing its RFP.

The RFQ comes as the authority prepares for two separate court cases related to its January adoption of a proposed settlement with the city. The CWA Board of Directors approved a resolution on Jan. 24 to enter a 40-year settlement to avoid litigating the city's ability to initiate a sale, approving a 10 percent rate hike to fund a one-time payment to the city of \$60,285,000 through a bond issuance. CWA assets would then be placed into a trust for the 40-year term.

While the city has not yet passed a resolution to enter into the agreement, a July 19 hearing is scheduled in the Delaware County Court of Common Pleas Orphans' Court Division before Judge Spiros Angelos to review the trust process and authorize the transfer of property into it, should the city enter the settlement.

"The deal with the city is still on the table, they can accept it at any time," CWA Solicitor Francis J. Catania said during an interview at the Times office Thursday. "We're asking the judge to approve that; that we have the power under the law to transfer the property into the trust."

According to Catania, Aqua Pennsylvania Inc. has filed a petition to intervene and become a party in the case.

Aqua, whose unsolicited offer to buy the CWA in May 2017 spurred the initial controversy, filed suit in the county Common Pleas Court against the city and CWA in early April to block the settlement. Aqua cited the approximately \$750,000 it pays CWA annually for four interconnections in their system and the impact the 10 percent rate increase would have on Aqua customers. The case, also before Angelos, is set to begin trial Oct. 7.

With the court cases moving forward, the CWA board authorized the RFQ to look backward at who the players were that led to this situation. The background to

the RFQ states "It is suspected that there are numerous third parties involved in this uninvited (2017) takeover attempt (by Aqua), only some of whom have been identified."

"I don't know who 'they' is, but there's an attempt to have one of the largest wealth transfers in this region's history happen – from the (CWA) ratepayers to the Aqua shareholders," said Catania.

The RFQ was initially sent to 10 Pennsylvania-based universities, both private and public, with unspecified groups outside academia set to receive it next week. "We've been actively engaged in making right-to-know requests. We have so much stuff we need help," Catania said.

The RFQ outlines various communications, discovered "through certain requests issued under Pennsylvania's Right-to-Know Law, and other sources," between the state Department of Community and Economic Development and Chester's state-appointed Act 47 coordinators Econsult Solutions with Aqua and consultants tied to investor-owned utilities. These communications occurred prior to and following the initial May 2017 offer.

The concluding objective in the RFQ is to "prepare a final public report" on the investigation's findings.

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