DAILY TIMES
Tuesday, June 18, 2019 $1.50 FACEBOOK.COM/DELCODAILYTIMES delcotimes.com

Choppy Water Returns for Iconic Chester Water Authority

EDITORIAL

There's trouble in the water this summer.

That is, if you are a customer or employee of the Chester Water Authority. And that includes 42,000 loyal, longtime customers of Chester Water Authority in 34 Delaware and Chester county municipalities and well as the city of Chester.

The future of the iconic water company is once again up in the air.

That's because instead of signing off on a deal that would solidify the company's position in the market, the city of Chester once again is considering selling off all or at least their part of the company.

Yes, we've been down this road before. Yes, we thought a sale had been averted. Yes, Chester Water Authority thought they had a deal with the city.

First, Chester Water had to fend off the giant utility Aqua Pa., which dropped a surprise $320 million offer on the table to buy the company. That offer was soundly rejected by the Chester Water Authority board.

Then the city started making noises that they might assert what they believe to be their rights to sell all or at least part of the company. The city has been trying earnestly for years to escape the state's "Distressed City" status under Act 47. To do that the city needed revenue, and the consultant hired by the state to oversee city finances suggested one place they could find it – by selling off Chester Water Authority.

That's when the city and Chester Water Authority announced a deal. Everybody got something out of this beauty – lots of money for the city of Chester, while the company that supplied all that sparkling clean water for decades would remain intact.

To do this, Chester Water announced it would kick in $60 million to the city's coffers. To raise the revenue, it announced it would increase rates by 10 percent.

The Chester Water Authority Board quickly signed off on the deal. For the most part, board members and customers weren't thrilled with the notion of a rate hike, but it beat the alternative, possibly seeing the company sold. In return for the funds, the city of Chester would relinquish its rights to sell any or all of the company for decades.

So everybody is happy, right?

Well, not quite.

As it turns out, Chester Water had not heard the last from Aqua Pa. As it turns out, Aqua is a CWA customer. And they weren't thrilled at the notion of seeing their rates hiked to bail out the city of Chester.

They went to court to block the deal, arguing it was not in the best interest of CWA customers. They also pointed out that as part of their offer to buy the company a few years back, they promised not to raise rates for a decade.

The deal remains tied up in court, and likely will be for months.

In the meantime, the city is under increasing pressure to exit that "distressed" label.

So they are once again looking at other possibilities, including the sale of the company.

Last week Chester City Council – which has not yet taken action on the agreement with Chester Water – instead passed a resolution to terminate Chester Water Authority and issue a request for proposal for interested buyers.

In other words, they were putting Chester Water Authority up for sale.

Again.

Mayor Thaddeus Kirkland would not rule out the possibility of additional talks between the city and Chester Water, but the suit filed by Aqua likely is not even going to be aired until the fall, and the city needs money to escape Act 47 now.

"We have not said 'No, we're not talking anymore,'" Kirkland said. "But we've put ourselves in exploratory mode."

The RFP makes clear the city's intentions: They are considering selling the entire company, lock, stock and barrel.

Whether or not the city has the legal right to do so is up to debate, and no doubt is going to make a lot of lawyers rich if this thing is not settled.

"We're happy to keep talking about a settlement," said Chester Water Authority Solicitor Frank Catania. "But if they would prefer to litigate it, we'll do what we have to to protect our ratepayers' interests."

Catania points out there are two legal issues at play here, the first being if the city has the legal authority to sell the company. And even if they do, which he is not yet willing to concede, he notes court rulings that indicate the proceeds from a sale go to ratepayers, not the city of another government agency.

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Tuesay, June 18, 2019 $1.50 FACEBOOK.COM/DELCODAILYTIMES delcotimes.com

Chester Water Authority traces its history in the city back to 1866. The company brings water through 656 miles of pipelines from the Susquehanna River and the Octoraro Reservoir on the border of Chester and Lancaster counties to Delaware County. It provides water for 19 municipalities in Delaware County, as well as several in southern Chester County. Only about 22 percent of Chester Water's customers reside in the city. The remaining 78 percent, the bulk of the firm's 42,000 customers, are sprinkled in towns in both Delaware and Chester counties.

Customers have made it clear at board meetings that they want the company to remain intact, even if it means swallowing a rate hike to help bail out the city. What they don't want is to see the private company fall into the hands of a giant utility like Aqua.

The boss at Aqua made it pretty clear that his company is aware of Chester's predicament, and is still interested in acquiring Chester Water.

"Aqua is aware of the city of Chester's intent to sell the Chester Water Authority assets," said CWA President Marc Lucca. "It is widely understood that the city of Chester has been the owner of the Chester Water Authority assets for more than 100 years and we believe has the legal standing to sell the assets. In this light, we are reviewing the RFP and plan to submit a proposal in response to the city's RFP."

That big Gulp you just heard was the Chester Water Authority board and customers swallowing hard.

Stay tuned.

It looks like the water is going to be choppy for some time for Chester Water Authority.

Much of the water that is supplied by the Chester Water Authority comes from the Octoraro Reservoir outside of Oxford, in southern Chester County. It is piped all the way to Delaware County.