

UPDATE NO. 1

Sent to: To the Honorable Members of the Pennsylvania Senate and House of Representatives that represent ratepayers in the Chester Water Authority service area

To the Elected Officials in the Townships and Boroughs that represent ratepayers in the Chester Water Authority service area

To the Honorable Council of Delaware County and Commissioners in Chester County because you represent ratepayers in the Chester Water Authority service area

Date Sent: April 20, 2020

Attachments to Update No. 1

1. Governor Wolf's Declaration of Fiscal Emergency for City of Chester dated April 13, 2020
2. Chair Cynthia Leitzell April 11, 2020 letter to Mayor Thaddeus Kirkland regarding Water Systems Litigation Bids

RE: Chester Water Authority ("CWA") Update No. 1
April 20, 2020

To the Honorable Members of the Pennsylvania Senate and House of Representatives that represent ratepayers in the Chester Water Authority service area

Because of the rapid developments that will occur concerning the Chester Water Authority and the effect the developments will have on many of your constituents, CWA will provide you with updates on the situation involving the CWA as the developments occur. Please feel free to inform your constituents as you wish.

On Monday April 13th Governor Wolf declared a Declaration of Fiscal Emergency in the City of Chester ("Declaration") (copy attached). The "Concise Statement of Facts" referenced in the Declaration was not attached to the copy of the Declaration that CWA received. CWA has since obtained the Statement and will be forwarding it to you as soon as our review is complete. The City of Chester is now under the practical control of Dennis M. Davin, Secretary of the Pennsylvania Department of Community and Economic Development ("DCED"). It seems clear that the DCED goal is to sell the CWA to a for-profit investor owned utility with disastrous consequences for all CWA ratepayers.

The last contact that CWA had with the City of Chester was the Saturday, April 11th submission of the attached letter from the CWA Board Chair to the Mayor of the City of Chester. No response has been received from the City. The response CWA received was the Governor's Declaration.

Further updates to follow.

Any questions or comments should be directed to Francis J. Catania, Solicitor, Chester Water Authority.

During the pandemic it is best to communicate with CWA via email, info@chesterwater.com.

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COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR

**DECLARATION OF FISCAL EMERGENCY
CITY OF CHESTER, PENNSYLVANIA
APRIL 13, 2020**

WHEREAS, in 1995, the Secretary of Community and Economic Development determined that the City of Chester had met the criteria necessary to issue a Determination of Municipal Financial Distress pursuant to the provisions of the Municipalities Financial Recovery Act, 53 P.S. § 11701.101 et seq. (“Act 47”);

WHEREAS, the City of Chester adopted an initial Recovery Plan in 1996 but due to difficult economic conditions was forced to adopt subsequent Recovery Plan amendments in 2006, 2013, and 2016;

WHEREAS, the City of Chester’s adopted an Exit Plan under Act 47 on October 10, 2018;

WHEREAS, a novel coronavirus (now known as “COVID-19”) began infecting humans in December 2019, and has since spread to over 180 countries, including the United States;

WHEREAS, on March 6, 2020, pursuant to the provisions of Subsection 7301(c) of the Emergency Services Management Code, 35 Pa.C.S. § 7101, et seq., I proclaimed the existence of a disaster emergency throughout the Commonwealth;

WHEREAS, on March 23, 2020, I ordered all individuals to stay at home and closed non-life sustaining businesses in several counties, including Delaware County in which the City of Chester is located, to mitigate the spread of COVID-19 in the Commonwealth;

WHEREAS, on April 1, 2020, I extended the stay at home order to the entire Commonwealth through April 30, 2020;

WHEREAS, the continuing spread of COVID-19 has adversely affected local government revenues, including those of the City of Chester;

WHEREAS, the ongoing fiscal distress of the City of Chester jeopardizes the health, safety and welfare of its citizens and threatens the fiscal stability of neighboring communities; and

WHEREAS, the City of Chester is projected to be insolvent within 180 days; and

WHEREAS, the City of Chester is subject to various pending legal actions involving significant municipal assets, all of which jeopardize the provision of vital and necessary services to its citizens and, therefore, is unable to ensure the continued provisions of such services.

NOW, THEREFORE, pursuant to the provisions of Sections 602(a)(1)(i) & (ii) of the Act of July 10, 1987 (P.L. 246, No. 47), as amended, 53 P.S. § 11701.101 et seq. (“Act 47 as amended”), I hereby determine that a fiscal emergency exists in the City of Chester.

FURTHER, in accordance with Section 602(b)(1) of Act 47 as amended, and contemporaneously with this Proclamation, I hereby adopt and issue, and incorporate herein by reference, the Concise Statement of Facts supporting the determination of the existence of a fiscal emergency in the City of Chester.

FURTHER, in accordance with Section 602(b)(1) of Act 47, I hereby direct the Secretary of Community and Economic Development forthwith to serve written notice of this Declaration, along with the Concise Statement of Facts, upon the governing body of the City of Chester and its Chief Executive Officer.

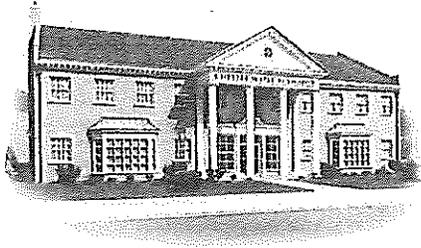
FURTHER, in accordance with Section 602(b)(2) of Act 47, I hereby direct the Secretary of Community and Economic Development, within ten (10) days of this Declaration, to develop an Emergency Action Plan as described by Sections 602(c) and 603 of Act 47 as amended to ensure that vital and necessary services are maintained within the City of Chester during the state of fiscal emergency.

FURTHER, I hereby delegate the authority conferred upon me as, Governor pursuant to the provisions of Section 604 of Act 47, as amended to the Secretary of Community and Economic Development, and I hereby authorize and direct the Secretary or his designee to carry out any emergency powers and issue any Orders otherwise reserved for the Governor pursuant to the aforesaid Section 604.



GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this thirteenth day of April two thousand twenty, the year of the commonwealth the two hundred and forty-fourth.

Tom Wolf
TOM WOLF
Governor



CWA Chester Water Authority

P.O. Box 467
Chester, Pennsylvania 19016-0467
Tel: (610) 876-8185

April 11, 2020

The Honorable Mayor Thaddeus Kirkland
Office of the Mayor
City of Chester
1 E. Fourth Street, 2nd Floor
Chester, PA 19013

Re: Water System Litigations

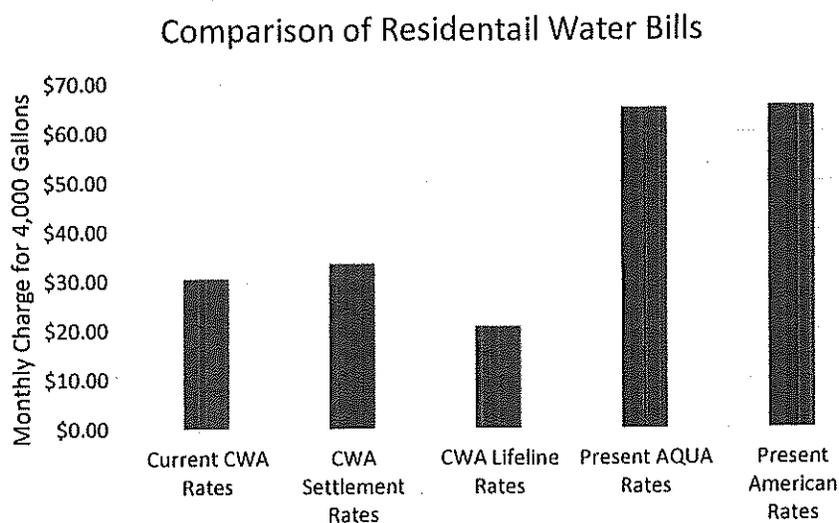
Dear Mayor Kirkland:

I am writing to ask you for a personal meeting to explore a resolution of the ongoing litigation between our two organizations. I believe we have the ability to resolve our differences and I also believe that Chester Water Authority ("CWA") is in a unique position to help the City and its residents faster than the two Investor-Owned Utilities ("IOU") that responded to your request for proposals. The high rates that are charged, and would be charged by the IOUs in the City in the event of a sale to one of them, will undoubtedly be harmful to residents and businesses that call the City home and that will only serve to reduce tax revenues available to the City. We can work together now to support the recovery of the City in ways that the IOUs simply cannot or will not. The need for us to partner on providing affordable clean water to our constituencies, which in the City of Chester we share, has also been acutely heightened in the public health emergency caused by the global Novel Coronavirus pandemic.

We understand the City's deep desire to have access to more cash soon. We have offered to provide the City \$60,285,000 once we execute an agreement to resolve the litigation and the Court approves it. CWA's Board has already approved this, it has been formally "on the table" since that vote occurred over a year ago, and no administrative agency review or approval is needed to close this arrangement. Although the IOUs have dangled the prospect of more money before the City, the ongoing litigation will delay the transfer of any portion of the proposed sums to you for years and that is only if the City is successful in defending and prosecuting its positions in the multiple litigations. In addition, we can see that the administrative agency review is also not

certain and itself could take additional years after our litigation is resolved.¹ Our offer is a certainty and the City can have the money now.

CWA rates, even with a 10% across the board increase which has yet to be implemented, are half what the IOUs charge today. We alone seem to recognize that affordability of safe, adequate and proper water service is an issue. We are the only entity that proposed a way to reduce rates for City residents. We offered to implement an income-qualified lifeline rate that would lower the bill paid by City residents by as much as 32%. A comparison of monthly charges is shown in this chart.



Even assuming that the City could legally close a deal with an IOU without the CWA's consent,² the IOUs will both move to increase rates the first chance they get when they file their next base rate increase request with the Pennsylvania Public Utility Commission ("PaPUC"). AQUA's proposal will increase rates by 41% in the first adjustment and American's first proposed increase is 44%. With additional rate adjustments through 2031, American will be charging residential customers almost \$108 per month for essential drinking water service. That's 250% more than what CWA charges now, ignoring the income-qualified rate reduction we plan to implement. Given that AQUA and American's rates are so close to one another, there is no reason

¹ It took AQUA three years to get to a point of having a proposed settlement in its effort to acquire the much smaller New Garden Township sewer system and that settlement has still not been approved by the Pennsylvania Public Utility Commission. And that was before the present public health crisis causing a significant delay nearly all government regulatory proceedings.

² For reasons the CWA has already explained in its court filings, the CWA does not believe the City can do so. I will avoid that discussion for purposes of this letter because I do not believe it is likely to be fruitful for purposes of discussing a potential resolution with you.

to believe that AQUA's rates will be any less than American's by 2031. These rates are not affordable. The US Environmental Protection Agency has defined affordable water rates as those rates that result in charges for water service that amount to 2% or less of annual household income. At these astonishingly high IOU rates, 87% of the households in the City of Chester could not afford safe drinking water.

Implementation of AQUA's rates or American's rates will also dramatically increase costs on businesses within the City. For example, the largest commercial and industrial customers in the City will see water costs increase by more than a million dollars per year. This will significantly harm the economic development that is key to the City's financial recovery.

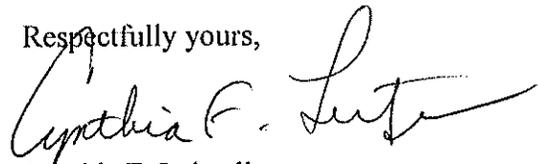
The present cost of water service in the City is based only on what it costs CWA to provide that service. By contrast, PaPUC policy causes IOUs to set uniform statewide rates. The actions of the IOUs to acquire other systems or make capital improvements in places that have nothing to do with providing high quality drinking water in the CWA service area will all drive rates up in the City. While some may view the "monetization of CWA" as a way to bring more money to the City from the suburbs, in the long run, the reverse is the reality. A sale to an IOU will only have City residents paying more than they should for water service to support IOU earnings growth and pay for the purchase price and complete capital construction in far flung areas. For example, the New Garden sewer acquisition by AQUA will cause rates to all AQUA water and sewer customers to go up. This is not conjecture but is the subject of a public notice AQUA distributed to all of its customers as part of the New Garden settlement. Acquisitions like this and capital investments IOUs make elsewhere will grow shareholder earnings and raise rates to City residents with no improvement in service quality.

CWA has not increased its rates since 2010 – ten years ago. Even if our Board were to have to make adjustments to rates in the years ahead, they would be based on the cost of water system improvements and providing service in the CWA service area. The CWA Board has the authority to make those rate adjustments when needed and you appointed three of my board member colleagues on CWA's nine-member Board. By contrast, the City would have no representation in American's Board room or in AQUA's Board room and no representation on the PaPUC.

You have been vocal in the past about your own desire to keep water rates low. On October 25, 2017, you sent me a letter stating that "as Mayor of a city of working people for whom every dollar counts, I want to make sure water rates stay as low as possible. . . ." You echoed that sentiment when you spoke at CWA's Board meeting on November 3, 2017. At that meeting, you said that the City has "always talked about quality water, low rates, and making sure that we do good by the citizens, not only in Chester, but in Delaware County and Chester County." Recognizing the importance of keeping low rates, you also said at the meeting that your "goal was to begin to build a bridge of communication between" the City and CWA "so that we could have conversations about moving forward." I submit this letter to you in that spirit.

Finally, the CWA's settlement offer is the only legal option available to the City. As the Authority has expressed in numerous court filings, the City has no legal right to unilaterally dissolve, acquire, terminate, sell, transfer the assets of, or otherwise interfere with the Authority's operations. The Authority will vigorously challenge any attempt by the City to engage in such unilateral action. In addition, given the current circumstances related to the spread of coronavirus, it is unlikely that the City could hold adequate public meetings to discuss the bids and have a proper public debate on the best course of action. But we can put all of this to a speedy end in a manner that provides tremendous benefits to both of our constituencies, particularly in the form of reducing water rates. CWA has offered over \$60 million and lower water rates now and in the future. We should meet as soon as possible to discuss this, and I remain confident that we can agree to a suitable resolution of these issues.

Respectfully yours,



Cynthia F. Leitzell
Chair, Board of Directors
Chester Water Authority