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What's at stake in the fight over the Chester Water Authority

Aqua PA. made a $410M offer, money the city of Chester needs. But CWA's customers throughout Delaware and Chester counties fear rates will soar.

By Kenny Cooper · November 14, 2021

Save CWA believes that public access to the Octoraro Reservoir in Lancaster County, a free recreational hub, is at stake. (Courtesy –

The number of water providers in Pennsylvania is dwindling. The water isn't drying up — the public utilities are, as for-profit water companies take over. In the case of Philadelphia's suburbs, Aqua Pennsylvania reigns supreme, providing water and wastewater services to more than 1.4 million people across the state.

Over the years, Aqua PA, a subsidiary of Essential Utilities Inc., has steadily grown its customer base by purchasing municipally owned water assets. In 2021 alone, the company has already bought two systems in Chester County, in Willistown and East Whiteland townships.

And for some time now, Aqua has had its eye on the Chester Water Authority. Based in the city of Chester, CWA is one of the region's largest public water systems, serving about 49,000 customers — more than 200,000 people — across 37 municipalities in Delaware and Chester counties.

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Aqua's latest effort to buy the water authority's assets from the perennially broke city that created it in 1939 depends on approval by the receiver overseeing Chester's finances and/or a decision by the state Supreme Court to hear CWA's appeal of a September Commonwealth Court ruling giving the city a path to making the deal.

To say Aqua's proposed purchase of CWA is unwelcome would be an understatement. Both the water authority and its ratepayers, worried about the potential for skyrocketing bills among other concerns, banded together in a quest to thwart the sale — so far, without much success.

In its 5-2 September decision, Commonwealth Court ruled the city of Chester is the sole owner of the water authority and its assets. Swiftly following that decision was a unanimous vote by the City Council to approve a $410 million asset purchase agreement with Aqua. CWA responded by asking the state Supreme Court to hear its case — with the support of an unlikely group of allies across party lines.

"We've been joined in our request to have the Supreme Court hear that case right now by the speaker of the Pennsylvania House of Representatives, Brian Cutler, and Rep. John Lawrence, who represents some of our ratepayers in Chester County. We've also been joined in that request by Chester County government and by the Food and Water Watch organization," said Francis Catania, the water authority's solicitor.

Regardless of the outcome of the litigation, Aqua also has offered $12 million, no questions asked, if the city of Chester officially accepts the deal.

"I would just say we're very appreciative of the mayor and City Council for their unanimous vote. And we look forward to working with the mayor and City Council to really invest in Chester, to bring it back, and to bring a much more tighter relationship between the utility and the city," Chris Franklin, chair and CEO of Essential Utilities Inc., told WHYY News in an interview.

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These days, all eyes are on Chester's state-appointed receiver, tasked with rescuing the financially crumbling city from total collapse, to see if he'll sign off on the purchase.

The water authority has organized a growing grassroots campaign, Save CWA, to fight the private takeover until the very end. The group has handed out more than 7,500 yard signs. Its petition demanding a ratepayer referendum before the sale of CWA had garnered roughly 7,700 signatures as of Nov. 13.

"Privatization is almost never a good idea. It's bad for the ratepayers and the community. CWA does not need or want to be sold," said Catherine Miller, an organizer for Save CWA.

The group argues an Aqua takeover will have grave consequences, saying that water bills will be higher, that public access to the CWA-owned Octoraro Reservoir in Lancaster County — a free recreational hub — will be lost, and that the more than 2,000 acres of green space CWA owns in Delaware, Chester and Lancaster counties could be sold to developers.

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"Why are we abdicating control of a vital resource such as water to a private company that's gonna make money off you?" Miller asked.

Franklin, CEO of Aqua PA's parent, promises that the reservoir will remain intact.

"You're hearing from me directly — the chairman of the company — that we will preserve that reservoir, in perpetuity, in its current form without developing any land around, without fencing it in a way that would preclude people from using it, and we would allow the continued recreation on the reservoir, essentially, status quo moving forward," Franklin said.

He also said that the CWA is employing scare tactics, and that ratepayers have nothing to worry about.

“The truth of the situation is the mayor and City Council, along with the company, have worked to set up a structure where a lot of the proceeds would go into an account, completely segregated single-purpose use of the funds, and we will use it to offset rates. And that single use would then keep rates steady for at least a period of 10 years,” Franklin said.

Miller doesn’t buy Franklin’s promises, pointing to Aqua’s closure of the once-popular Springton Reservoir in Delaware County for security reasons. She also said rate freezes are a pipe dream.

CWA admits its rates will go up 5% in 2022. And the skepticism directed toward Aqua is not unfounded. The company filed a rate case petition with the state Public Utility Commission in August, seeking to increase water bills for all its customers by 17% and wastewater bills by 33%.

Aqua cited the recovery of $1.1 billion it has spent in “infrastructure repairs and improvements” throughout the state since its last rate increase in 2019 as the reason for the dramatic rate hike.

“The shareholders have no money at risk, and their money is at risk if Aqua does a bad job in running the day-to-day operations. But with the PUC, they’re allowing them to raise rates whenever they want to. They have really minimal risk, and they don’t use their own money. Here’s the problem — the people who pay for these acquisitions are the ratepayers, and they don’t have a seat at the table,” Catania said.

The customer base is becoming increasingly upset. But Franklin thinks the Save CWA effort is artificial.

“This has been generated by massive legal fees and public relations fees of a very small group of people, and it is agitating in communities surrounding it. And that’s what this is all about,” Franklin said.

A fight that’s been brewing for years

In 2017, Aqua made an unsolicited $320 million offer to CWA to purchase it. The nine-member water authority board — consisting of three Chester City Council appointees, three Delaware County Council appointees, and three appointees named by the Chester County Commissioners — unanimously rejected the offer, citing no benefit to ratepayers.

In a strategic move to block Aqua and help Chester with its financial woes, CWA proposed a $60 million bailout of the city in exchange for placing the authority in a trust. As a corporate water customer of CWA, Aqua sued in 2019.

In February 2020, in what water authority solicitor Catania described as a request for proposals, the city of Chester received two bids for CWA, from Aqua and Pennsylvania American Water Co. (Separately, CWA had proposed a public-private partnership with the city and some restructuring.)

Since then, the issue has been tied up in court. Through it all, CWA has maintained that it is not owned by the city, and that it is not in financial distress. Initially, a trial court issued a favorable ruling for the water authority. But the most recent court action saw Commonwealth Court rule in a “very limited” majority decision that the city of Chester possessed “the general authority to obtain the assets of an authority that it created,” thus clearing a path for the city to re-engage with Aqua.

In his dissent, Commonwealth Court Judge Michael Wojcik wrote that he believed the sale to be a “foregone conclusion.”

“It is patently unconscionable to permit the city to pay off its own municipal debt by selling the authority’s assets that were paid for by its ratepayers, the vast majority of whom reside in the counties and elsewhere. In fact, the General

Assembly granted the counties 'seats at the table' to prevent the city from looting the authority, and using the sale of the authority's assets as its own municipal piggy bank," Wojcik wrote.

Although CWA hopes to see the matter decided by the state Supreme Court, it could very well be resolved by the Chester receiver.

A city in dire fiscal straits

Chester is in trouble. In an interview, Mayor Thaddeus Kirkland said that accepting "the most appealing" offer — Aqua's — was the best way out of it.

"We have to find a way of making sure that the citizens of Chester have an opportunity to stand on their own financially. This could possibly be that opportunity," Kirkland said.

He writes off public disapproval of his actions and those of the City Council as the result of a lack of factual information.

"There has been a lot of talk around the possibility of Aqua raising their rates … We would never, ever leave our residents or anyone else in that manner exposed to such a rate increase," Kirkland said.

He acknowledged that the $12 million on the table, a sort of signing bonus, is enticing.

"And that $12 million basically is nonrefundable. Win or lose in court, the city of Chester would be able to receive that $12 million," Kirkland said.

He told WHYY News that he is open to public meetings with Aqua, ratepayers, and even CWA so that everyone understands one another. But that's contingent on the city not sinking in the near future.

The predominantly Black city has a population of about 30,000 people. However, it was once a hub for manufacturing with a population more than double what it is now.

Both Chester and the local Chester Upland School District have been in a long economic freefall. Since 1995, Chester has been under the state's financial oversight. In 2020, the situation took a dramatic turn when Gov. Tom Wolf issued a "declaration of fiscal emergency" for Chester.

With that step, Chester became just the second municipality in the state's history (Harrisburg was the first) to be placed under receivership.

Receiver Michael Doweary arguably has one of the toughest jobs in the state. He said the situation is far worse than can be imagined: Chester is on "the brink of insolvency," and there is no playbook.

"Pensions in the city of Chester are the worst-funded plans in the entire commonwealth, maybe the country. To have a police pension plan that is 3% funded, that if nothing else is done, the benefits, the money in the reserves would run out in the next five months — that's unheard of," Doweary said. "Desperate times call for desperate measures."

Vijay Kapoor, chief of staff to Doweary, said past decisions have come back to haunt them.

“There were benefit changes over a decade ago that actually enhanced the police pension benefits, that allows certain police officers to retire with a $100,000-a-year pension. And under commonwealth law, it’s very difficult for the receiver to be able to change those,” Kapoor said.

It shouldn’t be lost on everybody that righting the ship for a city that has lost most of its population is a tall order, Kapoor said.

Like Mayor Kirkland, Doweary sees CWA as a golden ticket to recovery.

“To be financially viable, Chester needs a big influx of money, and the only asset that the city has that would even come close to generating that amount of money is the water system,” he said.

But Doweary said he has not made up his mind, nor does he have a timetable for a decision. Both Doweary and Kapoor said there is a possibility the water authority can remain in public hands.

“The receiver is absolutely open to keeping the system in public hands. The receiver had an independent analysis that was done on the water system about a year ago that valued the system and looked at the variety of bids… There was also the potential of… using a public-private partnership as a model of keeping it in public hands, and the receiver is open to seeing whether or not that might prove useful,” Kapoor said.

Doweary said the public should be patient.

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Carol Kazeem, who lives in Chester, is gravely concerned about a sale. She thinks that water quality could suffer, and that the bills could be too expensive to bear for her and her neighbors. She doesn’t think the mayor and City Council have looked at the issue thoroughly enough. But she has respect for the receiver, saying Doweary has been active in the community beyond his work hours, communicating and “breaking it down bit by bit of what each thing means — even if we do not agree.”

“When we start privatizing [CWA], they’re now making profits and turning it into a business. So we’re going to start dealing with a lot of higher increases. When we start seeing shutoff notices, you’re going to have a lot of individuals who are not going to be able to afford water. And that’s something they need daily,” Kazeem said.

Judy Short fears that she could very well be one of those people unable to afford water.

“I’m one of many, many senior citizens in Chester, and even though I’m on a limited income, there are people that are less fortunate than I financially, and they won’t be able to get water at all. And I don’t know whether I will be one of them,”

Short said.

Kearni Warren, fresh off an unsuccessful Chester City Council run as a Green Party candidate, said she first heard of CWA's possible sale this summer. However, she quickly felt as if the issue needed her attention, and it became a focus of her campaign.

Warren said her neighbors are angry about a lot of things going on in the city, and that this upset them even more.

"I think that it's been handled very poorly by our local government. When I ran for office, I was running on lack of transparency, lack of services, and a lack of opportunity. And lack of transparency is exactly what we're facing as residents here with the selling off of Chester Water Authority," she said. "We don't receive mailers in the mail about pretty much anything that is happening in this city that affects residents. And it's very frustrating, and it's also a level of just plain disrespect."

Kearni Warren (L) and Carol Kazeem (R), both ratepayers from Chester, are both gravely concerned about the potential sale of the Chester Water Authority, so they went to Harrisburg on Oct. 26 to speak lawmakers. (Courtesy – Ann Calamia)

Warren said Doweary has done a good job trying to resurrect the city, although she can't pin down where he stands on sale of the water authority. But her frustration extends beyond that issue.

"This didn't just happen overnight. And we have had mismanagement of funds to get us into this part, but we also have to hold our elected officials accountable," she said.

Michael Greek is a union employee and working foreman for CWA. He's worried about a loss of benefits.

"They can't offer us what we have as far as a pension, because we have what's called a municipal pension," Greek said.

He has also seen what private entities can do to union shops like his.

“The workers are the ones that kind of get forgotten about and get lost in the shuffle,” Greek said.

What ratepayers outside Chester think

Many ratepayers in other parts of CWA’s service area are pushing hard to stop the sale. Santo Mazzeo, who lives in Bethel Township, has been delivering Save CWA signs to raise awareness of what he thinks is the overarching issue at hand: profits over people.

“The main idea is that stakeholders and shareholders are interested in one thing with the acquisition of an energy provider or a service provider, and that’s profit. And what is going to happen is our rates are going to go up to satisfy the desires of stakeholders,” Mazzeo said.

Kristin Webb, of Concord Township, has been a CWA ratepayer for 20 years. The CWA board holds meetings in her township’s building, and as a retiree, she said, she had the free time to be a fly on the wall. That’s when she first heard about the possible sale.

She took it up with Concord Township officials. Since then, the Township Council has drafted a resolution expressing concern about Aqua’s interest in the CWA.

Some of her neighbors aren’t as concerned as she is, Webb said, but she believes her Texas roots have shown her the value of water as a natural resource.

“The fact that Chester city thinks that they can sell this resource out from underneath ratepayers is inappropriate,” Webb said.

Steve Annan, who lives in West Grove in Chester County, is a CWA ratepayer and frequenter of the Octoraro Reservoir. He said he’s never had a problem with his service in his 26 years as a customer. He argued that CWA belongs to its loyal customers, not to any lone municipality. As a senior citizen, he said, he doesn’t think Chester’s financial burden should affect his service.

“This shouldn’t be shared upon all these other customers like myself in Chester County and Delaware County, when a problem resides in Chester,” Annan said. He is also upset that the word hasn’t spread to everyone affected in Chester County.

But the bipartisan group of state lawmakers working to draft legislation to prevent this from happening in the future told WHYY News that their phones haven’t stopped ringing.

“Half of my district gets their water from Chester Water Authority, the other half gets their water from Aqua. And in the six years that I’ve been in office, I have never gotten more calls or emails on a topic than from people who are opposed to the sale of the Chester Water Authority,” said State Rep. Leanne Krueger, a Democrat representing the 161st District in Delaware County.

State Rep. Leanne Krueger speaks during an Oct. 26 presser outlining the legislation that she co-introduced with State Rep. John Lawrence. (Screenshot/Youtube)

Activists and lawmakers pointed to a 2016 law that allows purchasers to pay more than fair market value as the catalyst for Aqua's subsequent spree, buying water and wastewater systems in Cheltenham and Limerick in Montgomery County, among others. Those purchases spurred local activist groups in other towns — Norristown Opposes Privatization Efforts, Towamencin Neighbors Opposing Privatization Efforts, and Conshohocken Neighbors Opposing Privatization Efforts — all dead set on foiling Aqua's plans there.

Krueger and Republican State Rep. John Lawrence, who represents the 13th District in Chester and Lancaster counties, are co-sponsors of the new legislation.

"House Bill 1936 seeks to address this by only allowing the price of a system to be marked up in the sale process unless it is in financial and or operational distress. The Chester Water Authority is not in financial or operational distress," Krueger said.

Lawrence's own House Bill 97 would require a ratepayer referendum prior to the sale of any municipally owned water or sewer authority.

"So the people who paid the bills would have the opportunity to speak into the decision as to whether they want to see that water or wastewater treatment system sold," Lawrence said.

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