Access to Octoraro Reservoir unaffected as Pa. Supreme Court rules Chester city can't sell water system

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This is a view of the water at Octoraro Reservoir looking west from Spruce Grove Road Tuesday July 26, 2022.

BLAINE SHAHAN | Staff Photographer

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Editor's Note: This story was updated to include a comment from Aqua.

The Pennsylvania Supreme Court ruled Wednesday that Chester city officials don't have the power to take over the Chester Water Authority, a move the city pursued as it battles bankruptcy.

Chester, in Delaware County, currently is under state receivership and wants to acquire and sell the water authority's assets to Aqua Pennsylvania, a private water company based in Bryn Mawr. The city has been designated as financially distressed since 1995.

Resolving a case that dates back to 2020, the court said the city cannot sell the water authority's assets unilaterally. Chester city, Delaware County and Chester County must be involved in any decision about a potential sale. Each government entity appoints three members to the authority's nine-person board.

For Lancaster County residents, the court's decision means continued public access to the Octoraro Reservoir for the foreseeable future. The water authority owns the reservoir, which abuts Colerain and Little Britain townships and provides outdoor recreation opportunities for much of the county's southern end.

Jim Neary, who owns the live bait and tackle shop next to the reservoir's Kirkwood boat launch, has warned water lovers for years that the authority's planned sale to Aqua could result in a privatization of the waterway. Aqua purchased Springton Reservoir in Delaware County in 2001 and closed it to public use shortly after.

Wednesday's decision, Neary said, means the 12,000 people who visit the reservoir annually can continue to enjoy hunting, fishing and bird watching on the 500-plus acre reservoir and its 2,000 acres of natural land.

"It's such good news for everybody involved," Neary said.

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In 2022, Aqua officials said they intended to keep the reservoir open to the public.

Water authority officials said the Supreme Court's decision, which overturned a prior lower court decision, is a win for taxpayers in Chester and Delaware counties. The authority has claimed that its sale to Aqua could result in higher rates across the board.

The water authority services people living in 27 municipalities, primarily in Delaware County.

"We are delighted with the (PA Supreme Court) ruling, which brings real benefits to the ratepayers, residents, and businesses in our service area who deserve high-quality, reliable, and affordable water from a well-run, award-winning joint municipal authority," said Noel Brandon, the water authority's chair, in a statement. "More importantly, their ruling sets a historic precedent for similar cases that may arise in the Commonwealth."

Margo Woodacre, a co-founder of the activist group Keep Water Affordable, said she's "jumping for joy."

“After years of meetings, calls, and court battles, the ruling validated the persistence of the ratepayers and grassroots advocates,” Woodacre said in a statement. “It affirms our belief that public water is worth fighting for and our water belongs to us!”

A spokesperson for Chester city’s receiver, Vijay Kapoor, said they are “disappointed” with the decision.

“The City remains on a path to greater financial stability and improved operations,” the receiver’s office said. “However, we recognize that this ruling makes it more difficult for the city to exit bankruptcy. That said, we will continue to relentlessly work on behalf of all involved to reach a successful outcome.”

A spokesperson for Aqua said the company respects the Court's ruling.

"Aqua stands ready to participate in any process where our company can be part of an overall solution that assists the city of Chester exit bankruptcy and ensures utility customers in the region receive quality water at affordable rates," the spokesperson said in a statement.

The company initially offered to buy Chester Water Authority in 2017 with an unsolicited $320 million pitch that the water authority board rejected. Three years later, Chester city officials requested bids for the authority’s assets, which prompted Aqua to raise its offer to more than $400 million.

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